

Devidas Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Apr-25-2013

Appellant : Devidas

Respondent : The State of Madhya Pradesh

Advocate for Pet/Ap. : Shri. U.K. Tripathi

Judgement :

CRR No.576/2013 1 HIGH COURT OF MADHYA PRADESH JABALPUR SINGLE BENCH: Honble Shri Justice A.K. Shrivastava CRIMINAL REVISION No.576/2013 Applicant: Devidas s/o Baburao, R/o village Ugariya, District Khandwa, East Nimar (M.P.) Versus Respondent : State of Madhya Pradesh through Police Station Moghat Road, Khandwa, District East Nimar (M.P.)

----- Shri U.K. Tripathi, Advocate for the applicant.

Shri Pushpraj Singh, Public Prosecutor for the respondent- State.

ORDER

(Delivered on this 25th day of April, 2013) Feeling aggrieved by the judgment dated 21.3.2013 passed by learned Fourth Additional Sessions Judge, Khandwa, District East Nimar in Criminal Appeal No.208/2012 thereby affirming the judgment of conviction and order of sentence dated 20.10.2012 passed by learned Judicial Magistrate, First Class, Khandwa in Criminal Case No.2509/2009 convicting the applicant CRR No.576/2013 2 under Section 411 IPC and thereby sentencing him

to suffer R.I. for 6 months and to pay fine of Rs.500/-; the applicant has preferred this revision application under Section 397 read with Section 401 of the Code of Criminal Procedure, 1973.

2. No exhaustive statements of fact are required to be narrated for the purposes of disposal of this revision since they are narrated in the impugned order in para 1 to

3. Suffice it to say that the applicant along with other co-accused persons was tried for the offence punishable under Section 411 IPC. The other accused persons were charged separately for the separate charges.

3. The learned Trial Court after examining the evidence vis-a-vis to each other came to hold that charge under Section 411 IPC has been found to be proved against the applicant since the Mangalsutra of complainant Sushma (PW-13) was seized from his possession and eventually, convicted him under Section 411 IPC and passed the sentence of six months R.I. The appeal which was filed by the applicant has been dismissed by the impugned judgment. In this manner this revision application has been filed by the applicant.

4. I have heard Shri U.K. Tripathi, learned counsel for the applicant and Shri Pushpraj Singh, learned Public Prosecutor for the respondent-State. Having heard learned counsel for the parties, CRR No.576/2013 3 I am of the view that this revision application deserves to be allowed in part.

5. The only contention put forth by learned counsel for the applicant is that the complainant did not identify the Mangalsutra in proper manner. However, I do not find any merit in this contention for the simple reason that the Mangalsutra was of complainant herself, therefore, she did not commit any error in identifying the stolen article. The learned Two Courts below have assigned the cogent reasons in convicting the applicant for the offence punishable under Section 411 IPC. The reasons so assigned are based on correct appreciation of evidence and no interference is called for as they are pure findings of fact. Therefore, the conviction of the applicant is accordingly affirmed.

6. An alternative submission has also been put forth by learned counsel applicant that some lenient view be adopted while passing the sentence. This contention is

vehemently opposed by learned Public Prosecutor and prayed that the appeal be dismissed.

7. The applicant-accused is in Jail since 21.3.2013. He has already suffered Jail sentence of more than two months out of six months, therefore, it would be appropriate to sentence him for the period he has already undergone provided that he deposits a sum of Rs.4500/- more in the Trial Court towards fine for the offence he CRR No.576/2013 4 has committed. Let the entire amount of fine Rs.5000/- be paid to complainant Smt. Sushma Soni w/o Shri Rajneesh Soni, R/o Adarsh Nagar, Khandwa who appeared in the Trial Court as PW-13 towards compensation under Section 357 Cr.P.C.

8. The amount of compensation may be deposited in the entirety or in installment. However, it is made clear that only upon depositing Rs.4,500/- more by the applicant, he shall be enlarged for the period he had already undergone. It is further made clear that in case the applicant fails to deposit the compensation amount, he shall further undergo the sentence for the period of two months apart from the sentence he had already suffered.

9. Resultantly, this revision application succeeds and is allowed to the extent indicated hereinabove. The impugned judgment of conviction of applicant under Section 411 IPC passed by learned Trial Court, which has been affirmed by learned first Appellate Court is hereby affirmed. However, his sentence is modified as indicated hereinabove. (A.K. Shrivastava) Judge 25-04-2013. S/

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