

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.620 of 2006

Dinesh Kumar Agrawal, aged about 23 years, S/o Shri Ganpat Ram Agrawal,
R/o Village Khairtawla, Tahsil and District Mahasamund, Chhattisgarh

---- **Petitioner**

versus

State of Chhattisgarh through the District Magistrate, District Mahasamund,
Chhattisgarh

--- **Respondent**

For Petitioner	:	Shri Shivendu Pandya, Advocate
For State/Respondent	:	Shri Sameer Behar, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

31.7.2017

1. This revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure against the judgment of conviction and sentence dated 29.9.2006 passed in Criminal Appeal No.53 of 2006 by the 1st Additional Sessions Judge, Mahasamund arising out of the judgment dated 30.1.2006 passed in Criminal Case No.568 of 2005 by the Judicial Magistrate First Class, Mahasamund.
2. Case of the prosecution, in brief, is that on 25.8.2002 at about 9:00 a.m. Complainant Kriparam (PW-1) was repairing the potsherd of his house and his wife had gone to take bath at the pond. His grocery shop was closed and a sum of Rs.2,000/- was kept in a suitcase for purchasing articles. In the meanwhile, the Complainant heard sound of opening of the door of his shop. He saw that the Petitioner was running away from the spot. Thereafter, the Complainant saw that the sum of Rs.2,000/- earlier kept in the suitcase was not available therein. He lodged a report in Police Station Bagbahara. The matter was investigated into by

the police. During investigation, the police seized the money relating to the said occurrence from the Petitioner/accused. After the investigation, the police filed a charge-sheet against the Petitioner before the Judicial Magistrate First Class, Mahasamund. Charges under Sections 454 and 380 of the Indian Penal Code were framed against the Petitioner/accused. The prosecution examined 7 witnesses. After trial, the Trial Court convicted the Petitioner/accused for offences punishable under Sections 454 and 380 of the Indian Penal Code and sentenced with rigorous imprisonment for 2 years and to pay fine of Rs.600/- and rigorous imprisonment for 9 months and to pay fine of Rs.300/-, respectively with default stipulation. Being aggrieved by the judgment of the Trial Court, the Petitioner/accused preferred an appeal, being Criminal Appeal No.53 of 2006 before the Court of Session. The Learned 1st Additional Sessions Judge, Mahasamund, while upholding the conviction imposed upon the Petitioner/accused under Sections 454 and 380 of the Indian Penal Code, reduced the sentence awarded thereunder to rigorous imprisonment for 6 months and to pay fine of Rs.600/- and rigorous imprisonment for 6 months and to pay fine of Rs.300/-, respectively. Being aggrieved by the judgment of the Learned Additional Sessions Judge, the Petitioner has preferred the instant revision.

3. Learned Counsel appearing for the Petitioner submits that he does not press this revision on merits and confines his argument to the sentence part only. Learned Counsel further submits that the matter is of the year 2002 and out of the total jail sentence of 6 months, the Petitioner has already undergone the period of about 1½ months. Learned Counsel further submits that the Petitioner

has no criminal antecedent and he is facing the *lis* since 2002. Therefore, the jail sentence awarded to the Petitioner may be reduced to the period already undergone by him.

4. On the contrary, Learned State Counsel opposed the revision and supported the impugned judgment.
5. It is not in dispute that the matter relates to the year 2002 and the Petitioner is facing the *lis* for the last 15 years. He has no criminal antecedent. Out of the total jail sentence of 6 months, he has already undergone the period of about 1½ months.
6. Considering the facts and circumstances of the case, particularly, that the Petitioner is facing the *lis* for the last 15 years, out of the total jail sentence of 6 months he has already undergone the period of about 1½ months and he has no criminal antecedent, I am of the considered opinion that the ends of justice would be served if, while upholding the finding of conviction, the jail sentence awarded to him is reduced to the period already undergone by him.
7. Consequently, the criminal revision is allowed in part. The conviction imposed upon the accused/Petitioner under Sections 454 and 380 of the Indian Penal Code is upheld, but the jail sentence awarded to him thereunder by the impugned judgment is reduced to the period already undergone by him. The sentence of fine imposed upon him by the impugned judgment is also affirmed.
8. It is reported that the Petitioner is on bail. His bail bonds are not discharged at this stage and the same shall remain operative for a further period of six months from today in view of the provisions contained in Section 437A of the Cr.P.C.

- 9.** Records of the Courts below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge