

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Revision No.648 of 2006**

Kunj Lal, son of Sukalu Dhimar, aged about 35 years, resident of Village Bhothli, Police Station Arjuni, District Dhamtari, Chhattisgarh

---- **Applicant**

**versus**

State of Chhattisgarh through District Magistrate, Dhamtari, District Dhamtari, Chhattisgarh

--- **Respondent**

|                      |   |                                      |
|----------------------|---|--------------------------------------|
| For Applicant        | : | Smt. Indira Tripathi, Advocate       |
| For State/Respondent | : | Shri Rajendra Tripathi, Panel Lawyer |

**Hon'ble Shri Justice Arvind Singh Chandel**

**Order on Board**

**4.9.2017**

1. This revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure against the judgment dated 30.10.2006 passed in Criminal Appeal No.6 of 2006 by the Sessions Judge, Dhamtari upholding the judgment dated 22.8.2005 passed in Criminal Case No.1563 of 2003 by the Chief Judicial Magistrate, Dhamtari convicting the accused/Applicant under Section 34(b) of the Chhattisgarh Excise Act and sentencing him to undergo rigorous imprisonment for 3 months and to pay fine of Rs.5,000/- with default stipulation.
2. Case of the prosecution, in brief, is that on 28.9.2003, during patrolling duty, Head Constable V.K. Barman received a secret information from an informant. Thereafter, he along with Constables and witnesses searched the house of the Applicant and allegedly seized 1.8 litres of country made liquor and a sum of Rs.100/-. After due investigation, a charge-sheet was filed against the accused/Applicant. Charges were framed against him under Sections 34(a) and 34(b) of the Chhattisgarh Excise Act.

3. After trial, the Trial Court convicted and sentenced the accused as mentioned in the first paragraph of this order. In appeal, the judgment of the Trial Court has been affirmed. Hence, this revision.
4. Learned Counsel appearing for the Applicant submits that she does not press this revision on merits and confines her argument to the sentence part only. She further submits that the matter is of the year 2003 and out of the total jail sentence of 3 months, the accused has already undergone the period of about 12 days. She further submits that the accused has no criminal antecedent and he is facing the *lis* since 2003, i.e., for about 14 years. Therefore, the jail sentence awarded to the accused may be reduced to the period already undergone by him.
5. On the contrary, Learned State Counsel opposed the revision and supported the impugned judgment.
6. It is not in dispute that the matter relates to the year 2003 and the accused is facing the *lis* for the last 14 years. He has no criminal antecedent. Out of the total jail sentence of 3 months, he has already undergone the period of about 12 days.
7. Considering the above facts and circumstances of the case, 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 the accused/Applicant is reduced to the period already undergone by him.
8. Consequently, the criminal revision is allowed in part. The conviction imposed upon the accused/Applicant 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 is also upheld.

9. It is reported that the Applicant 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.
10. 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**