

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.555 of 2005**

Bholu alias Jamshed, S/o Abdul Rehman, aged about 25 years, R/o Jhanda Chowk, Pandri, Raipur, Chhattisgarh

---- **Applicant**

versus

State of Chhattisgarh through District Magistrate, District Raipur, Chhattisgarh

--- **Respondent**

For Applicant	:	Shri Alok Kumar Dewangan, Advocate
For State/Respondent	:	Shri Ravindra Agrawal, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

5.12.2017

1. This revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure against the judgment dated 16.12.2005 passed in Criminal Appeal No.147 of 2004 by the 10th Additional Sessions Judge (FTC), Raipur by which the Learned Additional Sessions Judge has affirmed the judgment dated 29.5.2004 passed in Criminal Case No.844 of 2003 by the Additional Chief Judicial Magistrate, Raipur convicting and sentencing the Applicant as under:

<u>Conviction</u>	<u>Sentence</u>
Under Section 457 of the Indian Penal Code	Rigorous Imprisonment for 1 year and fine of Rs.500/- with default stipulation
Under Section 380 of the Indian Penal Code	Rigorous Imprisonment for 1 year and fine of Rs.500/- with default stipulation

2. Case of the prosecution, in brief, is that Complainant Ramji Kedia (PW5) owns and runs a shop, namely, Raipur Sales Agency situated in Lane No.2, Sindhi Market, Raipur. On 15.5.2003 at about 9:00 p.m., he shut down the shop and returned home. In the

next morning at about 10:00 a.m., he went to open the shop. He saw that the shutter of the shop was open and the sum of Rs.5,000/- kept in the drawer of the counter table had been stolen. The matter was reported on which First Information Report (Ex.P3) was registered in Police Station Moudahapara, District Raipur. During investigation, memorandum statement (Ex.P1) of the Applicant was recorded and a sum of Rs.5,000/- was recovered and seized from him vide Ex.P2. On completion of the investigation, a charge-sheet was filed against the Applicant for offence punishable under Section 380 of the Indian Penal Code. Charges were framed against him under Sections 457 and 380 of the Indian Penal Code.

3. After trial, the Trial Court convicted and sentenced the Applicant and the Appellate Court affirmed the judgment of conviction and sentence as mentioned in the first paragraph of this order. Hence, this revision.
4. Learned Counsel appearing for the Applicant submits that he does not press this revision on merit and confines his argument to the sentence part only. He further submits that out of the total jail sentence of 1 year, the Applicant has already undergone about 3½ months. He is facing the *lis* since 2003, i.e., for about 14 years. He has no criminal antecedent. Therefore, the sentence awarded to him may be reduced to the period already undergone by him.
5. Per contra, Learned Counsel appearing for the State supported the impugned judgment.
6. I have heard Learned Counsel appearing for the parties and perused the record with due care.

7. Considering the above facts and circumstances of the case, I am of the opinion that the ends of justice would be met if, while upholding the conviction imposed upon the Applicant under Sections 457 and 380 of the Indian Penal Code, he is sentenced with the period already undergone by him and the amount of fine imposed upon him is enhanced to Rs.2,500/- for each of the offences (Total Rs.5,000/-). Ordered accordingly. The amount of fine imposed/enhanced today shall be payable within two months from the date of receipt of a copy of this order. In default of payment, the Applicant shall be liable to undergo simple imprisonment for 2 months. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.
8. Consequently, the revision is allowed in part to the extent indicated above.
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