

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 489 of 2004**

Murlidhar S/o Bapurao Mahar, Aged about 40 years, R/o Purana Bazar,
Dallirajhara, P.S. Rajahara, District- Durg (C.G.).

----Applicant**Versus**

State of Chhattisgarh through the District Magistrate, Durg (C.G.).

---- Respondent

For Applicant	:	Mr. M.P.S. Bhatiya, Advocate
For Respondent	:	Mr. U.K.S. Chandel, PL

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****20/06/2018**

1. Ms. Fouzia Mirza, Advocate who was earlier appearing for the applicant, submits that she wants to withdraw her power and she also submits that she has no objection, if henceforth Mr. M.P.S. Bhatia, Advocate appears and argue the matter on behalf of the applicant.
2. This revision has been preferred under Section 397 (1) read with 401 of Cr.P.C against the judgment dated 21/09/2004 passed in Criminal Appeal No. 178/2003 by the Additional Sessions Judge, Balod, whereby the Additional Sessions Judge, Balod has maintained the order of conviction of the applicant passed in Criminal Case No. 177/2002 by the Judicial Magistrate First Class, Balod on 10/04/2003, convicting the applicant under Section 420/34 of IPC and sentenced him to undergo RI for 3 years and to pay fine of Rs. 5000/- with default stipulation.
3. Case of the prosecution, in brief, is that in the month of March, 1995,

complainant- Ram Singh (PW4) went to the house of his friend, Ram Swaroop and there his friend told him one Dhanaji can increase the amount of Rs.. 15,000/- to 50,000/-. Then, Ram Swaroop took him to the house of Dhanaji Sahu at Dallirajhara. There, Dhanaji told him that he can increase the amount of Rs. 15,000/- to Rs. 50,000/-, then the complainant gave Rs. 6000/- on 07/03/1995 and Rs. 5000/- on 08/03/1995 to Dhanaji. After 15 days, he again gave Rs. 6,000/- to Dhanaji and present applicant- Murli. Total Rs. 16,000/- had taken from the complainant by the accused persons and cheated him. A report was lodged by the complainant- Ram Singh. After investigation, a charge-sheet under Section 420/34 of IPC was filed against the present applicant, Dhanaji, Mayaram and Saukat Ali. After trial, the learned Judicial Magistrate First Class, Balod vide judgment dated 10/04/2003 acquitted the accused- Saukat Ali and Mayaram and convicted the present applicant and co-accused Dhanaji under Section 420 and 420/34 of IPC and sentenced them as mentioned in para 1 of this order, which was also affirmed by the Appellate Court vide judgment dated 21/09/2004. Thereafter, this revision has been preferred by the present applicant.

4. Learned Counsel appearing for the applicant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that the matter is of the year 1995, the applicant is facing the *lis* since last 23 years and he has not criminal antecedent. It is further submitted that the applicant has undergone about 3 ½ months of jail sentence during trial out of total jail sentence of 3 years and there will be no fruitful purpose to send him again in jail,

therefore, he prays that the jail sentence awarded to the applicant may be reduced to the period already undergone by him.

5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. It is not in dispute that the matter relates to the year 1995 and the applicant is facing the */is* since last about 23 years. Moreover, the applicant has undergone about 3 ½ months of jail sentence out of total jail sentence of 3 years.
8. Considering the above facts and circumstances, I am of the considered opinion that the ends of justice would be met if, while upholding the conviction imposed upon the applicant, the jail sentence awarded to him is reduced to the period already undergone by him, however, the fine imposed upon him is enhanced from Rs. 5000/- to Rs.15,000/- under Section 420/34 of IPC. Ordered accordingly. The enhanced amount of fine shall be payable within one month from the date of receipt of a copy of this order. In default of payment, the applicant shall be liable to undergo RI for 1 year. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.
9. Consequently, the revision is partly allowed to the extend indicated above.

10. It is reported that the applicant is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.
11. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul