

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 678 of 2008

Puni Bai, W/o Hanshram Kenwat, aged about 45 years, R/o Bhilouni Chouki, Pachpedi, P.S. Mashturi, District – Bilaspur, C.G.

---- Applicant

Versus

State Of Chhattisgarh, Through the Police Station Mashturi Chouki, Pachpedi, District – Bilaspur, (CG)

---- Respondent

For Applicant	: Shri Ghanshyam Patel, Advocate
For Respondent/State	: Shri Gary Mukhopadhyay, G.A.

Hon'ble Smt. Justice Rajani Dubey

Order On Board

07/12/2018

The present revision arises out of the impugned order and judgment dated 23.09.2008 passed by the Sixth Additional Sessions Judge, Bilaspur in Cr. Appeal No. 68/2008 whereby the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Bilaspur, vide its judgment dated 05.08.2008 in Cr. Case No.130/2008 for the offence under Section 34(1)(A) of the Chhattisgarh Excise Act and sentenced to undergo RI for three months and to pay fine of Rs. 5000/- plus default stipulation.

2. Brief facts of the case are that on the date of incident i.e. 16.07.2006, P.S. Masturi received an information that Puni Bai was selling liquor in her hotel situated at village Bhilouni. Upon receiving the aforesaid information, the police party conducted raid in the hotel

and recovered 08 quarter of country made liquor, 02 empty bottles of quarter, two steel glass and 25 rupees cash. Investigation was done and the charge was framed against the accused/applicant under Section 34(1)(A) of the C.G. Excise Act.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 4 witnesses. Statement of the accused/applicant is also recorded under Section 313 of the Cr.P.C. in which she denied the charges leveled against her and pleaded her innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment and order dated 05.08.2008 learned Magistrate has convicted the accused/applicant for the offence under Section 34(1)(A) of the Excise Act and has sentenced her to undergo RI for three months with fine of Rs. 5000/-, with default stipulations. This order was appealed by the applicant and in the appeal, learned appellate Court has confirmed the conviction and sentence of the applicant. Hence, the present revision.

5. Heard counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the applicant submits that he is not pressing the revision as far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have been taken place in the year 2006 and thereby more than 12 years have rolled by since then, the applicant has already remained in jail for about 25 days, no useful purpose would be served in again sending her in jail as she is 55 years old middle aged women, therefore, it would be in the interest of justice if the sentence imposed on her may be reduced to the period already undergone by the applicant.

7. State counsel has no objection to this preposition.

8. Having gone through the material available on record and the fact that the incident had taken place in the year 2006, the applicant has already remained in jail for about 25 days and no useful purpose would be served in again sending her to jail, the revision is partly allowed. Conviction part of the impugned judgment is maintained. Applicant is reported to have remained in jail for a period of 25 days, her sentence is reduced to the period already undergone by her. The applicant is reported to be on bail. Her bail bond shall be discharged.

9. Revision thus partly allowed.

Sd/-

(Rajani Dubey)
Judge