

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 658 of 2008

- Dilan Yadav S/o. Mandal Yadav, Aged about 65 years, R/o. Village Girdhona, Police Station Hirri, Tahsil Belha, District Bilaspur (CG)

---- Applicant

Versus

- State Of Chhattisgarh, through District Collector Bilaspur, District Bilaspur (CG)

---- Respondent

For Applicant	:	Shri Vijay K.Deshmukh, Advocate
For Respondent/State	:	Shri Vivek Sharma, GA

Hon'ble Smt. Justice Rajani Dubey

Order On Board

07/12/2018

The present revision arises out of the impugned order and judgment dated 24.09.2008 passed by the Sessions Judge, Bilaspur in Cr. Appeal No. 81/2008 whereby the learned appellate Court below has confirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate first Class, Belhi, district Bilaspur vide its judgment dated 28.08.2008 in Cr. Case No. 604/2008 for the offence under Section 34(1)(A) of the CG Excise Act and sentenced him to undergo RI for three months and to pay fine of Rs. 500/- plus default stipulation.

2. As per prosecution case, on 06.07.2006, at village Girdhona, police station Hirri received information that applicant has sold and is in

possession of country made and foreign liquor without having the license. On the basis of this information, after investigation offence under Section 34 (1)(A) of the CG Excise Act was registered against the applicant and charges were framed against the accused/applicant.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 5 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded his innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment and order dated 28.08.08, learned Magistrate has convicted the accused/applicant for the offence under Section 34(1)(A) of the CG Excise Act and has sentenced to undergo RI for three months with fine of Rs. 500/- , with default stipulation. 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 taken place in the year 2006 and thereby more than 14 years have rolled by since then, he is aged more than 79 years, the applicant has already remained in jail for about 12 days, no useful purpose would be served in again sending him to jail, therefore it would be in the interest of justice if the sentence

imposed on him is reduced to the period already undergone by him. To this, counsel for the State has no serious objection.

7. In view of above, the fact that the incident had taken place in the year 2006 and further that the applicant has already remained in jail for about 12 days, 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 12 days, his sentence is reduced to the period already undergone by him.

8. Revision thus partly succeeds.

Sd/-

(Rajani Dubey)
Judge