

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 502 of 2004

Rohit S/o Bisahu Ram Patel, aged about 52 years, R/o Village Jevra, P.S.O.P. Jevra Sirsa, District Durg, CG.

---- Applicant

Versus

- The State of Chhattisgarh through S.H.O. Of P.S. Phulgaon, District Durg, CG.

---- Respondent

For Applicant	:	Shri Vipin Tiwari, Advocate
For State/Respondent	:	Smt. M. Aasha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

03 /12/2018

1. In this revision the judgment under challenge is dated 24.09.2004 passed by Additional Sessions Judge (FTC) Durg in Criminal appeal No. 388/2002. The findings recorded by the trial Court have been maintained as a whole.
2. Facts of the case, in brief, are that on 29.04.1994 the accused/applicant took Rs. 17,000/- from Prem Pratap (PW-1) in the name of getting him employment as peon in collectorate. Thereafter when PW-1 came to know that the accused/applicant did like that with so many other people, the report was lodged on 16.05.1994.
3. Learned Magistrate convicted the accused/applicant under Section 420 IPC and sentenced him to undergo RI for two years with fine of Rs. 500/- plus default stipulation. Learned lower appellate Court in appeal maintained the findings of the trial Court as a whole. Hence this revision.

4. Learned counsel for the accused/applicant submits that he is not pressing this revision on merits and would confine his argument to the sentence part of the judgment impugned therein. According to him, as the incident had taken place in the year 1994, and that he has already remained in jail for 04 months and 17 days, no useful purpose would be served in again sending him to jail, and therefore, the sentence imposed upon him may be reduced to the period already undergone.
5. State counsel however, supports the findings recorded by both the Courts below.
6. Heard counsel for the parties and perused the material on record.
7. Though counsel for the accused/applicant is not inclined to press the conviction of the accused/applicant, this Court thinks it appropriate to refer to the evidence of the witnesses to ascertain his guilt or innocence and therefore, it proceeds to do so.
8. On perusal of the evidence of complainant (PW-1) which has been duly supported by Bhupendra Kumar (PW-3) who had accompanied PW-1 to the house of accused for giving money, it is clear that the accused/applicant had dishonestly taken Rs. 17,000/- from the complainant in the name of providing him employment and thus committed an offence under Section 420 IPC. There is sufficient evidence to hold the accused/applicant guilty under Section 420 IPC. The Court below has been fully justified in passing the order impugned convicting the accused/applicant under Section 420 IPC, which is hereby maintained.
9. As regards sentence, keeping in view the fact that the incident had taken place about 24 years back and the applicant has already remained in jail for 04 months and 17 days, this Court is of the opinion that it would be in the interest of justice to reduce the

sentence to the period already undergone by him. Order accordingly.

10. Resultantly, the revision petition is hereby allowed in part with the modification in the judgment impugned as above.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan