

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 454 of 2004

Order reserved on : 24.09.2018

Order passed on : 12.12.2018

Hira Singh S/o. Mangat Gond, Aged 30 years, R/o. Railway Coloney, Gudiyari, Raipur District Raipur (C.G.) ---- **Applicant**

Versus

State of Chhattisgarh, Through the District Magistrate Raipur (C.G.) ---- **Respondent**

For Applicants : Ms. Seema Singh, Advocate.
For Respondent : Ms. M Asha, Panel Lawyer.

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V. Judgment

1. This revision is directed against the judgment dated 31.07.2004 passed by the Ninth Additional Sessions Judge (FTC) Raipur in Criminal Appeal No. 79 of 2003, affirming the judgment of conviction and order of sentence dated 20.02.2003 passed by the Judicial Magistrate, First Class, Raipur in Criminal Case No. 44/2001, convicting and sentencing the accused/applicant as under:-

Conviction	Sentence
394/34 IPC	R.I. for one year and to pay fine of Rs. 1000/-
323 IPC	R.I. for three months and to pay fine of Rs. 200/-
506 B IPC	R.I. for three months and to pay fine of Rs. 200/-
341 IPC	R.I. for one month and to pay fine of Rs. 200/-

	with default stipulations.
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2. Facts of the case, in short, are that on 10.09.2000 the accused/applicant posing himself to be constable of crime branch, stopped the motorcycle being driven by Mohanlal (PW-1) and pillion ridden by Charan Lal Dewangan (PW-9), asked them to show paper of the motorcycle and after criminally intimidating them, he snatched Rs. 1100/- from them and thus committed the offence. On the report lodged by PW-1, offence under Sections 394/34, 323, 506 B and 341 IPC were registered against him and after investigation the charge sheet was filed.

3. Having taken note of the material on record the Trial Court convicted and sentenced the applicants as mentioned above which subsequently has been affirmed by the lower appellate Court by the judgment impugned. Hence, this revision.

4. Learned Counsel appearing for the applicant submits that he is not pressing this revision on merit and confining his argument to the sentence part thereof only. According to him, as the incident had taken place in the year 2000 and he has already remained in jail for a period of four 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 by him.

5. State counsel however, supports the findings recorded by the both the Courts below.

6. I have heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

7. Though there is prayer only in respect of sentence part of the judgment impugned, this Court is required to deal with the conviction part thereof as well on merit.

8. From the evidence of the witnesses and the fact that the accused/applicant has been duly identified by the victim (PW-1) and PW-9 vide Ex.P/2 and further considering the over all material on record, both the Courts below have not committed any illegality in convicting the accused/applicant under Sections 394/34, 323, 506 B and 341 IPC and it is hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place about 18 years back and by now the applicant must be leading a well settled life bearing the burden of his responsibilities, 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 is hereby allowed in part with the modification in the judgment impugned as above.

Sd/-

(Vimla Singh Kapoor)

JUDGE

Santosh