

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 462 of 2004

Order reserved on : 18-09-2018

Order passed on : 28.11. 2018

Rajesh Patwa, Aged about 30 years, S/o. Shivram Patwa, Behind
Purani Basti,Raipur , Police Station Raipur District Raipur (C.G.)

---- Applicant

Versus

State of Chhattisgarh Through Station House Officer, Police Station
Ganj, Raipur District Raipur (C.G.)

---- Respondent

For Applicant : Mr. Ajay Chandra, Advocate
For Respondent : Mr. Adhiraj Surana, Dy. G.A.

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V. Judgment

This revision is directed against the judgment dated 24-08-2004 passed by the Additional Sessions Judge Raipur, District Raipur in Criminal Appeal No. 93 of 2003, affirming the judgment of conviction and order of sentence dated 07.03.2003 passed by the Judicial Magistrate, First Class, Raipur, in Criminal Case No. 562/2002, convicting and sentencing the accused/applicant as under:-

Applicant	Conviction	Sentence
Rajesh Patwa	458 IPC	RI for two years, with fine of Rs. 500/- with default stipulation.

2. Facts of the case, in short, are that on 13.12.2000 at about 12.30 midnight when the complainant PW-1 - the Assistant Jailor was sleeping in his house situate at Jail Line Raipur, somebody knocked his door and when he opened the same, the accused/applicant herein along with his companions being under intoxication intruded therein and started threatening him saying that during their captivity in jail they are not provided basic amenities. On hearing the commotion, the neighbours came to the spot and on seeing them the accused/applicant with his associates ran away. It is alleged that while running away the accused/applicant had abused and threatened the complainant of being killed. On this, the matter was reported to the Police vide Ex.P-1 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 applicants 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 that they have already remained in jail for a period of one month, 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 complainant (PW-1) duly corroborated by PW-2 and PW-3 it is evident that on the date of incident in the night hours the accused/applicant along with his associates entered the house of PW-1 and threatened him of life on the pretext that while in jail the basic facilities are not provided to them. Thus, the Court below has not committed any illegality in convicting the accused/applicant under Section 458 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

Jyotishi/Santosh