

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 458 of 2009**

Jitendra @ Jeetu, S/o Pardeshiram Vishwakarma, aged about 24 years, R/o Adarsh Nagar, Thana Rajendra nagar, District- Raipur (C.G.).

--- Applicant**Versus**

State of Chhattisgarh Through, Thana D.D. Nagar- Raipur, District- Raipur (C.G.).

---- Respondent

For Applicant	:	Mr. K.K. Dewangan, Advocate
For Respondent	:	Mr. U.K.S. Chandel, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**20/09/2018**

1. This revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure against the judgment dated 18/08/2009 passed by the 10th Additional Sessions Judge (FTC) Raipur (C.G.) in Criminal Appeal No. 60/2009, arising out of judgment of conviction dated 31/03/2009 passed in Criminal Case No. 1620/2007 by the Judicial Magistrate First Class, Raipur convicting the accused/applicant under Section 454 of the IPC and sentenced him to undergo RI for 3 years and to pay fine of Rs. 1000/- with default stipulation.
2. As per prosecution story, complainant- K. Parida lodged an FIR alleging that on 01/09/2007 at about 1:00 pm, the present applicant along with co-accused- Billa @ Kailash trespassed the house of the complainant in order to commit theft. After investigation, a charge-sheet under Section 454 of the IPC was submitted before the trial Court against the present applicant

and other co-accused- Billu @ Kailash. To guilt the applicant, total two prosecution witnesses have been examined. No defence witnesses has been examined.

3. After trial, the trial Court convicted the applicant and co-accused- Billu @ Kailash under Section 454 of the IPC and sentenced them to undergo RI for 3 years and to pay fine of Rs. 1000/-. In an appeal preferred by the applicant and co-accused, the Appellate Court has acquitted co-accused Billu @ Kailash and convicted the present applicant as mentioned in the first paragraph of this order. Hence, this revision.
4. Learned counsel appearing on behalf of the applicant submits that he does not want to press this revision on merit and confines his argument to the sentence part only. He further submits that the applicant has undergone in total 12 months out of total jail sentence of 3 years, the incident is of the year 2007, the applicant is facing the *lis* since 11 years and he has no known criminal antecedent. Therefore, the jail sentence awarded to the applicant may be reduced to the period already undergone by him.
5. Learned Counsel appearing for the State opposes the prayer made by the counsel for the applicant.
6. I have heard Learned Counsel appearing for the parties and perused the record.
7. Considering the above facts and circumstances, particularly considering that out of total jail sentence of 3 years, the applicant has undergone about 12 months and he is facing this *lis* since 2007, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the applicant, the jail sentenced awarded to him is reduced to the

period already undergone by him.

8. Consequently, the revision is partly allowed. The conviction of the applicant under Section 454 of the IPC is upheld and he is sentenced to the period already undergone by him. The fine sentence is affirmed.
9. It is reported that the applicant/accused is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.
10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge