

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 493 of 2009

1. Rajaram S/o Ramdin Kumhar, aged about 63 years, Village- Dhekuna, Thana Simga Distt. - Raipur (C.G.).
2. Ram Kumar S/o Dayaram, aged about 56 years R/o Village- Bamhnidih, Thana Simga, Distt. Raipur (C.G.).

--- Applicants

Versus

State of Chhattisgarh Through, P.S. Simga, Distt. - Raipur (C.G.).

---- Respondent

For Applicants	:	Mr. Sanjay Agrawal, Advocate
For Respondent	:	Mr. Vaibhav Goverdhan, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

17/09/2018

1. This revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure against the judgment dated 13/10/2009 passed by the Additional Sessions Judge, Bhatapara (C.G.) in Criminal Appeal No. 18/2009, arising out of judgment of conviction dated 29/08/2009 passed by the Judicial Magistrate First Class, Simga passed in Criminal Case No. 414/2007, whereby the Appellate Court has convicted the applicants Section 420/34 of the IPC and sentenced them to undergo SI for 6 months and to pay fine of Rs. 2000/- with default stipulation.
2. As per prosecution story, complainant- Lomus (PW2) was in jail for the offence punishable under Sections 302 and 304 of the IPC and the trial was pending before the learned Additional Sessions Judge, Baloda Bazar.

It was alleged that during the pendency of the said trial, on 06/08/1998, both the applicants had told to the mother of complainant- Lomus namely- Vedmati (PW3) that the Presiding Officer is in their relation so they could get acquittal order in favour of the complainant- Lomus and on that pretext, they had taken Rs. 72500 from Vedmati (PW3). It was further alleged that when the complainant was convicted, Vedmati demanded the money from the applicants, but they refused to return the money. Thereafter, Vedmati informed the said incident to the complainant- Lomus and Lomus sent a written report through jail authorities vide Ex.P-1 on 25/06/2000. On the basis of the said report, offence was registered. After investigation, a charge-sheet was filed under Section 420/34 of the IPC.

3. To prove the guilt of the applicants, total four witnesses have been examined by the prosecution. After trial, the trial Court has convicted the applicants under Section 420/34 of the IPC and sentenced them to undergo SI for 3 years and to pay fine of Rs. 2000/- each. Thereafter, the Appellate Court vide impugned judgment dated 13/10/2009 reduced the sentence of the applicants and sentenced them to undergo SI for 6 months and to pay fine of Rs. 2000. Hence, this revision.
4. Learned counsel appearing on behalf of the applicants submits he does not want to press this revision on merit and confines his argument to the sentence part only. He further submits that applicant No. 1 is aged about 75 years and applicant No. 2 is aged about 66 years, they have undergone about 1 month out of total jail sentence of 6 months, the incident is of the year 2000, the applicants are facing the *lis* since 18 years and they have no known criminal antecedent. Therefore, the jail sentence awarded to the applicants may be reduced to the period already undergone by them.

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 6 months, the applicants have undergone about 1 month, they are facing this *lis* since 2000 and after 18 years no fruitful purpose would be served to again send them in jail, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the applicants, the jail sentence awarded to them is reduced to the period already undergone by them.
8. Consequently, the revision is partly allowed. The conviction of the applicants under Section 420/34 IPC is upheld and they are sentenced to the period already undergone by them. The fine sentence is affirmed.
9. It is reported that the applicants/accused are on bail. Their bail bonds are 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