

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 461 of 2006**

1. Vishnu Prasad, S/o Kandhai @ Babulal Yadav, aged about 31 years,
2. Chandrika Prasad Yadav, S/o Kandhai @ Babulal Yadav, aged about 29 years,
Both are R/o Village- Madarwani, Police Station- Gaurela, District- Bilaspur (C.G.).

----Applicants**Versus**

State of Chhattisgarh, Through Police Station Gaurela District Bilaspur (C.G.).

---- Respondent

For Applicant	:	Mr. Dashrath Prajapati, Advocate
For Respondent	:	Mr. Rajkumar Jaiswal, PL

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****12/01/2018**

1. This revision has been preferred against the judgment dated 17/07/2006 passed by the Additional Sessions Judge, (FTC), Pendra Road in Criminal Appeal No. 17/2006, whereby, the conviction and sentence recorded by the JMFC dated 04/01/2006 has been confirmed.
2. Vide Judgment dated 04/01/2006 passed by the Judicial Magistrate First Class, Pendra Road, the Applicants have been convicted under Sections 457 & 380 of the Indian Penal Code and sentenced to undergo SI for 2 years with fine of Rs. 50 under each count with default stipulations. The sentences were directed to run concurrently.

3. Case of the prosecution, in brief, is that on 11/12/2001, complainant- Madan Lal Gupta had gone to Bilaspur. His house was locked. It is alleged that in the said night, the accused/applicants entered the said house and committed theft of various articles. A report was made by Madan Lal Gupta. Offence under Sections 457 & 380 of IPC was registered. During investigation, memorandum statement of accused/applicants were recorded and based on that, stolen articles were seized from the possession of the accused/applicants, which were later on identified by complainant- Madan Lal Gupta. A charge-sheet under Sections 457 & 380 of IPC was filed. After trial, accused/Applicants have been convicted and sentenced as mentioned in para 2 of this judgment. Against the said judgment, an appeal was preferred, which was dismissed vide judgment dated 17/07/2006 passed by the First Appellate Court. Thus, this revision.
4. Learned Counsel appearing for the Applicants submits that he does not press this revision on merit and confines his argument to the sentence part only. He further submits that out of the total jail sentence of 2 years, the Applicants have already undergone about 4 months. The Applicants are facing the *lis* since 2001 i.e. for about 17 years. They have no criminal antecedent. Therefore, the sentence awarded to them may be reduced to the period already undergone by them.
5. Per contra, learned Counsel appearing for the State supported the impugned judgment
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.

7. Considering the facts and circumstances of the case, particularly considering that the stolen articles were of the cost of Rs. 5000/- only and the Applicants have already undergone 4 months of jail sentence out of total jail sentence of 2 years, and they are facing the *lis* since 2001, I am of the opinion that the ends of justice would be met if, while upholding the conviction imposed upon the Applicants, they are sentenced with the period already undergone by them. Ordered accordingly. The sentence of fine imposed upon the Applicants on both counts is affirmed.
8. Consequently, the revision is allowed in part to the extent indicated above.
9. Records of the Courts below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge