

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 192 of 2013**

1. Sanjay @ Jeetu @ Jitendra S/o. Narmada Prasad Vaishnav, aged about 20 years R/o. Shyam Nagar Lingiyadih, Thana- Sarkanda, Distt. Bilaspur (C.G.).
2. Deva @ Devkumar S/o Vishwanath Nirmalkar, aged about 42 years, R/o. Village- Poundi, Present Residence of Village- Chatidih, Thana- Sarkanda, Distt.- Bilaspur (C.G.).

---- Applicants**Versus**

State of Chhattisgarh, through- District Magistrate Bilaspur, Distt.- Bilaspur (C.G.).

---- Respondent

For Applicants	:	Mrs. Indira Tripathi, Advocate
For Respondent	:	Mr. U.K.S. Chandel, PL

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****25/10/2018**

1. This revision has been preferred against the judgment dated 13/03/2013 passed in Criminal Appeal No. 130/2010 by the Second Additional Sessions Judge of the Court of First Additional Sessions Judge, Bilaspur, arising out of judgment dated 15/11/2010 passed in Criminal Case No. 173/2010 by the Judicial Magistrate First Class, Kota, District Bilaspur, convicting the accused/applicants as under:-

Conviction	Sentence
Applicant Nos. 1 & 2 have been convicted under Section 458 of the Indian Penal Code.	RI for 3 years and to pay fine of Rs. 2000/- with default stipulation.
Applicant No.1 has been additionally convicted under Section 25 (1-B) (B) of the Arms Act.	SI for 3 years with fine of Rs. 2000/- with default stipulation.

2. As per prosecution story, complainant- Hemarao (PW2) was running a hotel. On 20/10/2010 at about 09:30 pm, she was alone at her house and her husband had gone to attend the call of nature. It is alleged that both the applicants and other co-accused- Mangal Shah entered into the house. All the accused persons asked her to give keys and jewelery. The complainant raised an alarm and after hearing the alarm, villagers came there. All the accused persons tried to fled away from the spot, but applicant No. 1 Sanjay and co-accused Mangal were caught and applicant No. 2, Deva fled away from the spot. The matter was reported by the complainant. On the basis of said report, offence has been registered. During course of investigation on 20/02/2010 itself, one Iron sword was seized from the possession of Sanjay and one knife was seized form the possession of co-accused Mangal. Further, on 17/04/2010, on the memorandum statement of applicant No.2, one air pistol was seized vide Ex.P.-2 from his possession. Statement of witnesses under Section 161 Cr.P.C were recorded. After investigation, a charge-sheet was filed against the present applicants and co-accused Mangal. After trial, the trial Court has convicted and sentenced the present applicants as mentioned in the first paragraph of this order, which was also affirmed by the Appellate Court. Hence, this revision.
3. Learned Counsel appearing for the Applicants submits that she does not want to press this revision on merits and confines her argument to the sentence part only. It is further submitted that the Applicants are facing the *lis* since 8 years and out of total jail sentence of 3 years, applicant No. 1 has undergone from 21/02/2010 to 01/12/2010 during

trial, from 13/03/2013 to 19/03/2013 during pendency of this revision, and applicant No. 2 has undergone from 17/04/2010 to 01/12/2010 during trial and from 13/03/2013 to 19/03/2013 during pendency of this revision. Therefore, she prays that the jail sentence awarded to the Applicants may be reduced to the period already undergone by them.

4. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the minimum sentence under Section 25 (1-B) (B) of the Arms Act is 1 year.
5. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
6. Considering the above facts and circumstances, particularly considering that out of total jail sentence of 3 years, applicant No. 1 has undergone from 21/02/2010 to 01/12/2010 during trial, from 13/03/2013 to 19/03/2013 during pendency of this revision and applicant No. 2 has undergone from 17/04/2010 to 01/12/2010 during trial, from 13/03/2013 to 19/03/2013 during pendency of this revision, they are facing the *lis* since 8 years and further considering that though there is minimum sentence of 1 year under Section 25 (1-B) (B) of the Arms Act, which may be reduced by giving special reasons and no fruitful purpose would be served to again send the applicants in jail after 8 years, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Applicants, the jail sentenced awarded to him is reduced to the period already undergone by them and the fine imposed upon applicant No. 1 under Section 25 (1-B) (B) of the Arms Act is enhanced to Rs. 25,000/-. Ordered

accordingly. The enhanced amount of fine against applicant No. 1 under Section 25 (1-B) (B) of the Arms Act shall be payable within 2 months from the date of receipt of a copy of this order. In default of payment, applicant No.1 shall be liable to undergo RI for 6 months. If any amount has already been deposited towards fine under Section 25 (1-B) (B) of the Arms Act by applicant No.2, the same shall be adjusted in the amount of fine imposed/enhanced today.

7. Consequently, the revision is partly allowed to the extent indicated above.
8. 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.
9. 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