

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 11 of 2013**

Chhabiram Sahu S/o Bharat Sahu, aged about 30 years R/o Village- Kopra,
Tahsil & Police Station- Rajim, District- Gariyaband (C.G.).

--- Applicant

Versus

State of Chhattisgarh, through Police Station- Rajim, District- Gariyaband
(C.G.).

---- Respondent

For Applicant	:	Mr. K.K. Singh, Advocate
For Respondent	:	Mr. Sangarh Pandey, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

11/10/2018

1. This revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure against the judgment dated 28/12/2012 passed by the Additional Sessions Judge, Gariyaband (C.G.) in Criminal Appeal No. 50/2012, arising out of judgment of conviction and sentence dated 12/10/2012 passed in Criminal case No. 195/2012 by the Chief Judicial Magistrate, Gariyaband, convicting the applicant under Section 34 (2) of the Chhattisgarh Excise Act and sentenced him to undergo RI for one year and to pay fine of Rs. 30,000, with default stipulation.
2. As per prosecution story, on 18/03/2012, Police Station- Rajim has received a telephonic information that the present applicant illegally selling country made liquor at village- Kopra. On the basis of said information, the police party raided and seized 35 bulk liters of country made liquor which was kept in 7 jeri-cane, each containing 5 liters from the possession of the

applicant.

3. FIR has been registered. Statement of witnesses under Section 161 of the Cr.P.C were recorded. After investigation, a charge-sheet under Section 34 (2) of the C.G. Excise Act was filed. The trial Court framed the charges.
4. To guilt the applicant, the prosecution has examined as many as 5 witnesses. After trial, the trial Court has convicted and sentenced the applicant as mentioned in the first paragraph of this order, which was also affirmed by the Appellate Court. Hence, this revision.
5. Learned counsel appearing on behalf of the applicant submits that he does not want to press this revision on merit of the case and confines his argument to the sentence part only. He further submits that out of total jail sentence of 1 year, the applicant has undergone about 4 ½ months. The incident is of the year 2012. The applicant is facing the *lis* since 6 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.
6. Learned Counsel appearing for the State opposes the prayer made by the counsel for the applicant.
7. I have heard Learned Counsel appearing for the parties and perused the material available on record.
8. Considering the above facts and circumstances of the case, particularly considering that out of total jail sentence of 1 year, the applicant has undergone about 4 ½ months, he is facing the *lis* since 6 years and he has no known criminal antecedent, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the

appellant, the jail sentenced awarded to him is reduced to the period already undergone by him.

9. Consequently, the revision is partly allowed. The conviction of the applicant under Section 34(2) of the C.G. Excise Act is upheld and he is sentenced to the period already undergone by him. The fine sentence is affirmed.
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

Rahul