

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 739 of 2008

- Ramesh @ Bholu Kenwat, S/o Shri Bodhan Kenwat, aged about 22 years, R/o Village Kondkera, Police Station – Mahasamund, District – Mahasamund, C.G.

---- Applicant

Versus

- State of Chhattisgarh, Through the District Magistrate, District – Mahasamund, C.G.

---- Respondent

For Applicant	:	Ms. Mandavi Bharadwaj, Adv.
For Respondent/State	:	Shri Anand Verma, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey

Order On Board

27.02.2019

The present revision arises out of the impugned judgment of conviction and order of sentence dated 01.11.2008, passed by the Sessions Judge, Mahasamund in Cr. Appeal No. 52/2008 whereby the learned appellate Court below while maintaining the conviction of the applicant modified the sentence awarded by the learned Judicial Magistrate first Class, Mahasamund, vide its judgment dated 09.04.2008 in Cr. Case No. 94/2005 for the offence under Section 392 of the IPC, and sentenced him to undergo RI for six months along with fine of Rs. 500/-, with default stipulation.

2. Brief facts of the case are that on 16.08.2004, at about 4.00 p.m. in village Kondkera, the complainant namely Renuka Bai Chandrakar went for answering natural call near the pond. When she was returning, the accused/applicant came there and snatched Mangalsutra of the

complainant. When complainant tried to oppose his act, the accused pushed her and ran away from the spot. Thereafter, the report was lodged in the police station Mahasamund by the complainant and offence under Section 392 of IPC was registered against applicant/accused. After filing of the charge sheet, the trial Court framed charges against the accused/applicant under Section 392 of the IPC.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 7 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charge leveled against him and pleaded his innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment and order dated 09.04.2008, learned Magistrate has convicted the accused/applicant for the offence under Section 392 and has sentenced to undergo RI for 2 years and to pay fine of Rs.500/-, with default stipulation. On appeal, the conviction has been maintained but the sentence awarded under Section 392 of the IPC, has been reduced to six months and to pay fine of Rs.500/-, with default stipulation. This order was appealed by the applicant and in the appeal, learned appellate Court has confirmed the conviction and sentence of the applicant. Hence, the present revision.

5. Heard counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the applicant submits that he is not pressing the revision as far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only.

According to him, the incident is said to have taken place in the year 2004 and thereby more than 15 years have rolled by since then, he is aged more than about 37 years, the applicant has already remained in jail for about two months, no useful purpose would be served in again sending him to jail, therefore, it would be in the interest of justice if the sentence imposed on him may be reduced to the period already undergone by him.

7. Learned State counsel has no objection to this preposition.

8. Having gone through the material on record and the evidence of the witnesses on record, established the involvement of the accused/applicant in the crime in question. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the applicant under Section 392 of the IPC, being so it is hereby maintained.

9. Taking into consideration the aforesaid material aspects of the case and the fact that the incident had taken place in the year 2004 and further considering that the applicant has already remained in jail for about two months, the revision is partly allowed. Conviction part of the impugned judgment is maintained. Applicant is reported to have remained in jail for a period of two months, his sentence is reduced to the period already undergone by him.

10. Revision thus partly succeeds.

Sd/-
(Rajani Dubey)
Judge