

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 637 of 2008

1. Mehtru Pardhi, S/o Atmaram, aged about 50 years, Cultivator, R/o Village-Piparbhattha, PS and Tahsil-Bemetara, District – Durg, Chhattisgarh
2. Mishri Lal, S/o Bisahu Pardhi, aged about 32 years, Cultivator, R/o Village-Piparbhattha, PS and Tahsil-Bemetara, District – Durg, Chhattisgarh

---- Applicants

Versus

- State of Chhattisgarh, Through : Police Station-Bemetara, Chhattisgarh

---- Respondent

For Applicants	:	Shri Arvind Dubey, Adv.
For Respondent/State	:	Shri I. Lakra, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey

Order On Board

29.07.2019

1. The present revision arises out of the judgment of conviction and order of sentence dated 10.09.2008 passed by the Learned Additional Session Judge (FTC), Bemetara, District – Durg, in Cr. Appeal No. 359/2004, whereby the learned appellate Court below has affirmed the conviction and sentence of the accused/applicants as awarded by the learned Judicial Magistrate First Class, Bemetara, District – Durg, vide its judgment dated 15.10.2004 in Cr. Case No. 383/2002 for the offence under Section 379 of the IPC and sentenced them to undergo RI for three months and to pay fine of Rs.500/-, to each, with default stipulation.

2. Brief facts of the case are that, at about 3.00 clock in the night, the complainant has heard some noise outside from this house, when he reached there, he saw five persons were stolen the thrashed paddy in the bags. Thereafter, he raised alarm and caught hold off the applicants, and other applicants ran away from the spot. The applicants also ran away from the spot leaving the paddy there. The bicycles of the applicants were also seized from the spot. The FIR was lodged by the complainant against the accused/applicants and other co-accused. After filing of charge-sheet, charges were framed against the accused/applicants under Section 379 of the IPC.

3. So as to prove the guilt of the accused/applicants, the prosecution has examined 07 witnesses. Statement of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they denied the charges leveled against them and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 15.10.2004, learned Judicial Magistrate First Class has convicted the applicants under Section 379 of the IPC and sentenced them to undergo RI for three months and to pay fine of Rs.500/-, with default stipulation. This order was appealed by the applicants and in the appeal, learned appellate Court has affirmed the conviction and sentence of the applicants. Hence, the present revision.

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

6. Counsel for the applicants submits that he is not pressing this

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 2001 and thereby more than 18 years have rolled by since then, they are aged about 50-60 years, the applicants have already remained in jail for about 15 days and no useful purpose would be served in again sending them to jail. Therefore, it would be in the interest of justice if the sentence imposed on them may be reduced to the period already undergone by them.

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

8. Having gone through the material on record and the evidence of the witnesses including Nilesh Kumar (PW-1), Vijay Kumar Singh(PW-2), Ram Kailash (PW-3), Taturam Sahu(PW-4), Balwant(PW-6) and Manish(PW-7) establishes the involvement of the accused/applicants in 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 379 of the IPC, being so they are hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 2001 and the applicant has already remained in jail for about 15 days and further considering the fact that the applicants have already faced a prolonged trial and suffered trauma of uncertainty arising out of their conviction by the Sessions Court, the revision is partly allowed and their sentence is liable to be reduced to the period already undergone by them. Conviction part of the impugned judgment is maintained.

10. The applicants are on bail. Their bail bond shall stand discharged.

11. Revision thus partly succeeds.

Sd/-
(Rajani Dubey)
JUDGE