

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 777 of 2008**

- Arjun Suryavanshi S/o Shri Santram Suryavanshi aged about 24 years, R/o Tifra, behind Laxmi Marbal, Thana- Chakarbhatha, District Bilaspur (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, through Police Station Civil Line Bilaspur (C.G.)

---- Respondent

For Applicant	:	Mr. Vivek Bhakta, advocate from Legal Aid.
For Respondent/State	:	Ms. Reena Singh, PL

Hon'ble Smt. Justice Rajani Dubey**Order On Board****19.09.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 28.11.2008 passed by the learned Sessions Judge, Bilaspur, in Cr. Appeal No. 98/2008 whereby, the learned appellate Court below has confirmed the conviction and sentence of the accused/applicant as awarded by the learned Chief Judicial Magistrate, Bilaspur, vide its judgment dated 30.09.2008 in Criminal Case No. 98/2008 for the offence under Sections 457 and 380 of IPC and sentenced him to undergo R.I. for 6 months with fine of Rs. 200/- and R.I. for 6 months with fine of Rs. 200/-, plus default stipulation respectively.

2. Brief facts of the case are that on 21.09.2007 at about 03.00 AM applicant with other co-accused namely Poonam Suryavanshi entered the Indian Specialty Fats Ltd. factory and committed theft of two pieces of three-phase Induction Motor worth of Rs. 14,000/-. After completion of investigation, charge-sheet has been filed and charges were framed

against the applicant.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 4 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 innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 30.09.2008, learned Chief Judicial Magistrate has convicted and sentenced the applicant for the offence under Sections 457 and 380 of IPC and sentenced him to undergo R.I. for 6 months with fine of Rs. 200/- and R.I. for 6 months with fine of Rs. 200/-, plus default stipulation respectively. This order was appealed by the applicant and in the appeal, learned Appellate Court has affirmed the conviction and sentence of the appellant. Hence, the present revision.

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

6. Counsel for the applicant submits that she is not pressing the revision so 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 2007, and thereby more than 12 years have rolled by since then. The applicant has already remained in jail for more than 2 months, and no useful purpose would be served in again sending him to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to the period already undergone by him.

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

8. Having gone through the material on record and the evidence of the witnesses Istkhar Ahmed (PW-1), Krishna Kumar Mishra (PW-3) and Om Prakash Singh (PW-4), involvement of the accused/applicant

in the crime in question stands proved beyond reasonable doubt. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the appellant under Sections 457 and 380 of IPC

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2007, and further that the appellant had already remained in jail for more than 2 months, therefore, his sentence is liable to be reduced to the period already undergone by him.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the appellant, he is sentenced to the period already undergone by him.

**Sd/-
(Rajani Dubey)
JUDGE**