

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 467 of 2008**

- Bechan Gond S/o Juthan Gond, R/o Village Kunda Basti, P/s Jainagar, Tah.- Surajpur, District- Surguja, C.G.

---- Applicant**Versus**

- State Of Chhattisgarh, Through : P/o Jainagar, Tahshil-Surajpur, District- Surguja, C.G.

---- Respondent

For Applicant	:	Vijay K. Sahu, From legal Aid.
For Respondent/State	:	Mr. Anurag Verma, PL.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****19.08.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 21.05.2008 passed by the learned 2nd Additional Sessions Judge(FTC), Surajpur, District- Sarguja, C.G. in Criminal Appeal No. 52/2008 whereby, the learned appellate Court below has confirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Lower Court, Surajpur, vide its judgment dated 28.04.2008 in Criminal Case No. 447/1994 for the offence under Section 394 of IPC and sentenced him to undergo R.I. for two years with fine of Rs. 200/-, plus default stipulation.
2. Brief facts of the case are that on 11.10.1994 at about 12.00 O'clock complainant namely Syamlal along with his friend namely Jokhanram were coming back to their home from Bishrampur on Motor Cycle, near railway crossing of village Kunda, accused Bachan intercepted the complainant and his friend saying that if they do not stop, he would kill them and thereafter, accused assaulted the complainant with stone and looted cash of Rs. 70/- from complainant and Rs. 100/- from Jokhanram. Complainant

reported the matter to Police Station and an FIR was lodged against applicant/accused person. After completion of investigation, charge sheet was filed and charges were framed by the trial Court against accused/applicant under Section 394 of IPC.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 11 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded innocence and false implication in the case.
4. After hearing the parties, vide judgment of conviction and order of sentence dated 28.04.2008, learned Judicial Magistrate has convicted and sentenced the accused/applicant for the offence under Section 394 of IPC and sentenced him to undergo R.I. for 2 years and to pay fine of Rs. 200/-, 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 appellant. Hence, the present revision.
5. Learned counsel for the applicant submits that he 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 1994, and thereby more than 25 years have rolled by since then. He is aged about 60 years. The applicant has already remained in jail for more than one year, 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 the applicant may be reduced to the period already undergone by him.
6. Learned counsel for the State has no objection to this preposition.
7. Heard learned counsel for the parties and perused the material on record including the impugned judgment.
8. Having gone through the material on record and the evidence of the witnesses Shyam Lal (PW-1), Jokhan Ram (PW-2), Lajpat Rai (PW-3), Sadharan Rajak (PW-4), Ashutosh Gupta (PW-5), Moh. Ramjan (PW-6), Ramdayal (PW-7), Kailash (PW-10), and Bhaskar Singh (PW-11), established the involvement of the accused/applicant in the crime in question 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 Section 394 of IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 1994, and further that the appellant has already remained in jail for more than one year, 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. The applicant is on bail. His bail bond will stand discharged.

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