

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 503 of 2006**

- Murlidhar S/o Shri Jhadu Ram Mahar Aged About 45 Years, R/o Village-Purana Bazar, Dalli Rajhara, District-Durg, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh, Through : the SHO, P.S. Rajahara, District-Durg (the District Magistrate, Durg), Chhattisgarh.

---- Respondent

For Applicant	:	None for the applicant.
For Respondent/State	:	Ms. Reena Singh, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****26.08.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 27.06.2006 passed by the learned Additional Sessions Judge, Balod, District-Durg, in Cr. Appeal No. 472/2002 whereby, the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Balod, vide its judgment dated 10.12.2002 in Criminal Case No. 175/2002 for the offence punishable under Section 420/34 of IPC and sentenced him to undergo R.I. for 3 years & fine of Rs. 5,000/-, plus default stipulation.

2. Brief facts of the case are that in the month of February, 1995 one Mr. Anandram told the complainant Doman Lal that the accused person Dhannaji makes the amount double. Being allured by such the complainant gave total Rs. 24,000/- but when the complainant demanded money he was threatened by the accused person. Therefore, FIR was lodged. After completion of investigation, charge sheet was filed and charges were framed against accused/applicant and other co-accused persons under Section 420/34 of IPC.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 7 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the circumstances appearing 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 10.12.2002, learned Judicial Magistrate has convicted and sentenced the accused/applicant and other co-accused for the offence punishable under Sections 420 read with Section 34 of IPC and sentenced them to undergo R.I. 2-2 years & fine of Rs. 5,000/- - Rs. 5,000/-, plus default stipulation. 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. Applicant filed this revision on this ground that impugned order is most unjust, illegal and unwarranted and the same cannot be sustained either in law or on the facts of the case. Various contradictions and discrepancies brought in the cross examination of Doman Lal (PW-2), there are several infirmities in the testimony of Doman Lal (PW-2), Anand Ram (PW-6) and Goverdhan (PW-3). There was in-ordinate delay in lodging the FIR so, impugned order is liable to set aside.

6. No one appeared on behalf of the applicant when case was called out for hearing.

7. Heard learned counsel for the respondent/State which supports the impugned order.

8. Learned counsel for the State submits the report of the Superintendent of Central Jail Raipur which shows that applicant remain in jail from 27.10.2006 to 02.01.2007 and previously he was in jail from 09.05.1995 to 21.10.1995 and in other case he was in jail from 18.04.2006 to 27.06.2006.

9. Having gone through the material on record and the evidence of the witnesses including R. K. Sharma (PW-1), Doman Lal (PW-2), Goverdhan (PW-3), Aparsingh (PW-4), Sundar Prasad (PW-5), Anand

Ram (PW-6) and Mohan Lal (PW-7), established the 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 it is hereby maintained.

10. As regards sentence, keeping in view the facts that incident had taken place in the year 1995, and thereby more than 23 years have rolled by since then and further that the applicant had already remained in jail for more than 1 year, therefore, his sentence is liable to be reduced to the period already undergone by him.

11. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the applicant, 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