

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 409 of 2005**

- Subhash Ghosh S/o Late D. B. Ghosh aged about 55 years, R/o Near Maharashtra Mandal, Tikarapara, Bilaspur, P.S. City Kotwali, Tahsil & District-Bilaspur, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh, Through : P.S. city Kotwali, District-Bilaspur, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Ajay Mishra, From Legal Aid.
For Respondent/State	:	Mr. Akhtar Hussain, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****06/09/2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 08.09.2005 passed by the learned Additional Sessions Judge, Bilaspur, in Cr. Appeal No. 60/2004 whereby, the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant as awarded by the learned Chief Judicial Magistrate First Class, Bilaspur, vide its judgment dated 03.02.2004 in Criminal Case No. 3984/2003 for the offence punishable under Section 420 of IPC and sentenced him to undergo R.I. for one year with fine of Rs. 1,000/-, plus default stipulation.

2. Brief facts of the case are that complainant Lakhan Kumar Samanto lodged a written complaint on 30.04.1999 at police station Torwa that applicant abetting the brother of complainant Shatrughan Samanto and his brother-in-law Gopal Samanto and friend Suresh Dubey and dishonestly taken a sum of Rs. 7,700/- on the pretext of getting job for them in the year 1997. Thereafter, F.I.R. was lodged against applicant. After completion of investigation, charge sheet was filed and charges were framed against accused/applicant under

Section 420 of the IPC.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 8 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 03.02.2004, learned Chief Judicial Magistrate has convicted and sentenced the accused/applicant for the offence punishable under Section 420 of IPC and sentenced him to undergo R.I. for one year with fine of Rs. 1,000/-, 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. 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 1997, and thereby more than 22 years have rolled by since then. The applicant is aged about 75 years and he has already remained in jail for more than 107 days, 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.

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

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 Radha Bai (PW-1), Gurudayal Das (PW-2), Neeludas (PW-3), Benabai (PW-4), Lakhan Samanto (PW-5), Satruhan Samanto (PW-6), Gopal Samanto (PW-7) and A.C.H. Chari (PW-8), 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 of the applicant under Section 420 of IPC being so they are hereby maintained.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 1997, and further that the applicant had already remained in jail for more than 107 days, 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 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**