

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 187 of 2013

- Parasram Kaushik, S/o Murarilal Kaushik, Aged About 32 Years, R/o Amsena, PS Hirri, Distt. Bilaspur , Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, Through Distt. Magistrate, Distt. Bilaspur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Vipin Singh, Adv.
For Respondent/State	:	Shri Wasim Miyan, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

18.07.2019

The present revision arises out of the impugned order and judgment of conviction and order of sentence dated 08.03.2013 passed by the Learned Second Additional Session Judge to the Court of First Additional Sessions Judge, Bilaspur, in Cr. Appeal No.338/2012, whereby the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant awarded by the learned Judicial Magistrate First Class, Belha, District - Bilaspur, vide its judgment dated 26.09.2012 in Cr. Case No.327/2012 for the offence under Section 34(1)(A) of the CG Excise Act, and sentenced him to undergo SI for six months along with fine of Rs. 10,000/-, with default stipulation.

2. Brief facts of the case are that on 06.07.2012, Sarpanch of the Village Amsena, informed to PS- Hirri that womens committee of Village caught hold the accused/Parasram Kaushik keeping illicit liquor with him. Upon this information, the ASI Bodhan Singh, along with his police staff, reached at the spot and seized 20 pav liquor from the possession of the accused/applicant. Thereafter, the FIR was lodged against the accused applicant. After filing of charge-sheet, charges were framed against the accused/applicant under Section 34(1)(A) of the CG Excise Act.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 10 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 impugned judgment of conviction and order of sentence dated 29.09.2012, learned Judicial Magistrate First Class has convicted the accused/applicant under Section 34(1)(A) of the C.G. Excise Act and sentenced him to undergo SI for six months and to pay fine of Rs.10,000/-, with default stipulation. This order was appealed by the applicant in the appeal and learned appellate Court has affirmed the conviction and sentence of the applicant. Hence, the present revision.

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

6. Counsel for the applicant 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 2012 and thereby more than 07 years have rolled by since then, he is aged about 40 years, the applicant has already remained in jail for about more than one month and no useful purpose would be served in again sending him to jail. Therefore, it would be in the interest of justice if the sentence imposed on him may be reduced to the period already undergone by him.

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 Kalpana Rathore (PW-1), Bodha Singh Thakur(PW-2), Baisakhuram Kaushik(PW-3), Gyan Bai(PW-4), Pyari Bai(PW-5), Shyam Bai(PW-6), Kamla Bai(PW-7),Kanti Bai(PW-8), Vijay Verma(PW-9) and Sushil Patel(PW-10), it establishes the involvement of the accused/applicant in the 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 34(1)(B) of the CG Excise Act, being so, are hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 2012 and the applicant has already remained in jail for about more than one month and further considering the fact that the applicant has already faced a prolonged trial and suffered trauma of uncertainty arising out of his conviction by the Sessions Court, the revision is partly allowed. Conviction part of the impugned judgment is maintained. Applicant is reported to have

remained in jail for a period of more than one month, his sentence is reduced to the period already undergone by him.

10. The applicant is on bail. His bail bond shall stand discharged.

11. Revision, thus, partly succeeds.

Sd/-
(Rajani Dubey)
JUDGE