

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1968 of 2000**

Kalinath alias Kalicharan S/o Goverdhan Singh, aged about 40 years R/o Sector-2, Zone 01, Gautam Nagar, Khursipar, Bhilai, Durg, Tah & Distt. Durg.

---- Appellant

Versus

State of M.P. through P.S. Nevai, Distt. Durg, (M.P) (Now State of Chhattisgarh).

---- Respondent

For Appellant	:	Mr. Rahil Arun Kochar, Advocate
For Respondent	:	My Ajay Kumbrani, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

19/11/2019

1. This appeal has been preferred against the judgment dated 31/07/2000 passed in Sessions Trial No. 317/1999 by the First Additional Sessions Judge, Durg (C.G.), whereby the Appellant has been convicted under Section 394 of the Indian Penal Code and sentenced to undergo RI for 3 years and to pay fine of Rs. 1000/- with default stipulation.
2. Facts of the case are that Complainant Peelalal (PW3) had taken some grocery articles from the shop of brother of the Appellant. On 08/10/1984, the Complainant, after receiving information of illness of his wife, was going to village for seeing her. In night, he slept at bus-stand, Durg. When he woke up, he saw the Appellant and other acquitted persons namely Sunderlal, Mohanlal and Balaram, and

absconded accused Shankar were sitting in an Auto. The complainant asked them for lift. On the way, the Appellant and other accused persons looted Rs. 630/- from him saying that he had not returned the money of his brother of the Appellant. Thereafter, the matter was reported by the Complainant on 08/10/1984 itself. After investigation, a charge-sheet has been filed against the Appellant as well as other accused persons. Trial Court framed the charges under Sections 395/397 of the IPC and Section 4 of the Protection of Debtors Act. As many as 13 prosecution witnesses have been examined. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C has been recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has acquitted Balaram, Sundar and Mohanlal from all the charges, however, the Appellant has been convicted sentenced as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that there was a loot of only Rs. 630/- which, as alleged by the prosecution, looted because the Complainant had not returned the money of brother of the Appellant. He further submits that the Appellant has undergone about 2 months out of total jail sentence of 3 years, he has no criminal antecedent and he is facing the *lis* since 1984, therefore, he prays that the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.

5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. Considering the above facts and circumstances of the case, particularly considering that out of total jail sentence of 3 years, the Appellant has undergone about 2 months, he is facing the *lis* since 1984 and there is no criminal antecedent against him, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the jail sentenced awarded to him is reduced to the period already undergone by him.
8. Consequently, the appeal is partly allowed. The conviction of the Appellant under the aforementioned section is affirmed and he is sentenced to the period already undergone by him. The fine sentence is affirmed.
9. It is reported that the Appellant/accused is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.
10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge