

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 775 of 2008**

- Shivakar Rao S/o Sudama Rao, aged about 32 years, R/o Magarpara Chowk, Tahsil and District Bilaspur (C.G.)

---- Applicant**Versus**

- State of Chhattisgarh, through Station House Officer, Police Station Civil Lines, Bilaspur (C.G.)

---- Respondent

For Applicant	:	Mr. Akhtar Hussain, on behalf of Mr. V.C. Ottalwar, Adv.
For Respondent/State	:	Ms. Reena Singh, PL

Hon'ble Smt. Justice Rajani Dubey**Order On Board****23.09.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 27.11.2008 passed by the learned Sessions Judge, Bilaspur (C.G.) in Cr. Appeal No. 106/2008 whereby, the learned Appellate Court below has confirmed the conviction and modified the sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Bilaspur, vide its judgment dated 07.11.2008 in Criminal Case No. 728/2005 for the offence under Sections 457 & 380 of the IPC and sentenced him to undergo R.I. for 6 months with fine of Rs. 300/- and R.I. for 6 months with fine of Rs. 300/- plus default stipulation respectively.

2. Brief facts of the case are that complainant Narendra Ramteke lodged a written complaint before the concerned police station against the applicants. As per the written complaint, on 21.07.2000 someone has stolen some parts of Rickshaw i.e. 9 pieces of tire, 10 pieces of ring and a wheel worth of Rs. 1950/-

from his house which was bought for sale from the Upkar Cycle Stores. After completion of investigation, charge-sheet has been filed and charges were framed against the applicant.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 5 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 07.11.2008, learned Judicial Magistrate First Class has convicted and sentenced the applicants for the offence under Sections 457 & 380 of the IPC and sentenced him to undergo RI for 1 year with fine of Rs. 300/- and R.I. for 1 year with fine of Rs. 300/- plus default stipulation respectively. This order was appealed by the applicant and in the appeal, learned Appellate Court has affirmed the conviction and modified the sentence of the appellant as mentioned above in para 1. Hence, the present revision.

6. 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, applicant is facing the *lis* since 2000, i.e. for the last 19 years. Out of the total jail sentence of 6 months, he has already undergone about 1 month, he is aged about 51 years 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.

7. Learned counsel for the State opposed the prayer made by learned counsel for the Applicant and supported the impugned judgment.

5. 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 Lal Ji (PW-1), Rampal Borkar (PW-2), complainant Narendra Kumar Ramteke (PW-3), Zameel Ahmed (PW-4) and Akash Borkar (PW-5), 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 appellant under Sections 457 & 380 of the IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2000, and further that the appellants had already remained in jail about 1 month, 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.

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