

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 169 of 2008**

- Parmeshwar, S/o Kisun Ram Chandrakar, Aged About 30 Years, R/o Village Agarikhurd, P.S. and UP- Tahsil Khamaria, District- Durg C.G.

---- Applicant**Versus**

- State of Chhattisgarh, Through S.H.O. P.S.- Pipariya, Jashpur, District- Kabirdham (Kawardha) C.G.

---- Respondent

For Applicant	:	Ms. Sareena Khan From Legal Aid
For Respondent/State	:	Mr. B. L. Sahu, P.L.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****27.09.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 29/02/2008 passed by Sessions Judge, Kabirdham (Kawardha), C.G. in Cr. Appeal No. 40/2007 whereby, appellate Court below while acquitting the applicant of the charges under Sections 457 & 380 of IPC has confirmed the conviction of the applicant of the charge under Section 411 of IPC and sentenced him to undergo RI for six months with fine of Rs. 1,000/- with default as awarded by the learned Judicial Magistrate First Class, Kabirdham (Kawardha) C.G., vide its judgment dated 04.10.2007 in Criminal Case No. 411/2006 for the offence under Sections 457 & 380 of IPC sentencing him to undergo RI for one year each with fine of Rs. 500/- each with default stipulation.

2. Brief facts of the case are that complainant lodged a report alleging that on the night of 02-03/03/2005, a computer along with its monitor have been stolen from Primary School Dashrangpur by some unknown persons. During investigation, the said property was seized from the house of Krishnaram and Parmeshwar. On this report, offence

has been registered against the applicant. After completion of investigation, charge-sheet was filed and charges were framed against the applicant under Sections 457 & 380 of IPC by the trial Court.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 09 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charge leveled against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide judgment of conviction and order of sentence dated 04.10.2007, learned Judicial Magistrate has convicted and sentenced the applicant for the offence under Sections 457 & 380 of IPC sentencing him to undergo RI for one year each with fine of Rs. 500/- each with default stipulation. This order was appealed by the applicant and in the appeal, learned Appellate Court set aside the conviction of the offence under Sections 457 & 380 of IPC and convicted the applicant under Section 411 of IPC for R.I. of six months with fine of Rs. 1,000/- . Hence, the present revision.

5. Heard learned 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 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 2005, and thereby nearly 15 years have rolled by since then. The applicant has already remained in jail for about one month, 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 has no objection to this proposition.

8. Having gone through the material on record and the evidence of

the witnesses Shri Ram Sahu (PW-1), Hublal Suktel (PW-2), Smt. Poonam Dhurve (PW-3), Mohan Lal Sahu (PW-4), Khelan Das (PW-5), Ganesh Das (PW-6), Sanjay Kumar Vaishnav (PW-7), Santram Dehre (PW-8) and R.P. Jaiswal (PW-9) established the involvement of the accused/applicant in the crime in question beyond reasonable doubt. This Court does not see any illegality in the findings recorded by appellate Court below as regards conviction of the applicant under Section 411 of IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2005, and further that the applicant had already remained in jail for about one 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 applicant, he is sentenced to the period already undergone by him. The applicant is reported to be on bail. His bail bonds shall stand discharged.

11. The criminal revision thus allowed in part.

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