

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 582 of 2008**

1. Manthir, S/o Tej Singh, aged about 37 years.
2. Ramswarup, S/o Dinaram, aged about 35 years.
3. Hemraj, S/o Dinaram, aged about 38 years,

All are residents of village - Awrabhatha, Police Station – Balod,
District- Durg (C.G.)

---- Applicants

Versus

- State of Chhattisgarh, through District Magistrate, Police
Station - Balod, District - Durg (C.G.)

---- Respondent

For Applicants	:	Shri Krishna Tondon, Advocate
For Respondent/State	:	Shri Anand Verma, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey

Order On Board

03.05.2019

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 20/08/2008 passed by the Additional Sessions Judge, Balod, District- Durg, in Cr. Appeal No. 112/2007 & 117/2007 whereby, the learned appellate Court below has confirmed the conviction and sentence of the accused/applicants as awarded by the learned Judicial Magistrate First Class, Balod, vide its judgment dated 28/11/2007 in Criminal Case No. 368/2007 for the offence under Sections 457 and 380 of IPC and sentenced them to undergo R.I. for one year with fine of Rs.200/- to each, for each Section plus default stipulation.

2. Brief facts of the case are that complainant Suresh Kumar lodged an FIR against the applicants that at about 1 AM the accused/applicants entered the mill with intention to steal rice bags and

were caught red handed while stealing 6 bags of rice. After completion of investigation charge-sheet was filed and charges were framed against the accused/applicants under Sections 457 and 380 IPC.

3. So as to hold the accused/applicants guilty, the prosecution has examined as many as 06 witnesses. Statements of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they denied the charge leveled against them and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 28/11/2007, learned Judicial Magistrate, First Class, has convicted and sentenced the applicants for the offence under Sections 457 and 380 of IPC to undergo R.I. for one year and to pay fine of Rs. 200/- to each, for each Section. This order was appealed by the applicants and in the appeal, learned Appellate Court has affirmed the conviction and sentence of the appellants. 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 applicants 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 2006, and thereby more than 12 years have rolled by since then. They are aged more than 50 years. The applicants have already remained in jail for more than two months, and no useful purpose would be served in again sending them to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon them may be reduced to the period already undergone by them.

7. Learned counsel for the State has no objection to this preposition.

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

the witnesses Vishnu Prasad (PW-1), Gopal Singh Thakur (PW-2), Suresh Kumar (PW-3) Chhannu Lal (PW-4), Nandu Mandavi (PW-5) and Rajendra Singh (PW-6) involvement of the accused/applicants 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 appellants under Sections 457 and 380 of IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2006, and further that the appellants had already remained in jail for more than two months, therefore, their sentence is liable to be reduced to the period already undergone by them.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the applicants, they are sentenced to the period already undergone by them.

Sd/-
(Rajani Dubey)
JUDGE