

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 500 of 2012**

- Radhe Sahu, S/o Dadul Sahu aged about 38 years, residence of village- Manoharpara, Thana – Lalpur, Tahsil- Lormi, District Bilaspur (C.G.)

---- Applicant**Versus**

- State of Chhattisgarh, through the District Magistrate, Bilaspur, Now District Mungeli (C.G.)

---- Respondent

For Applicant	:	Shri Sunil Sahu, Advocate
For Respondent/State	:	Shri B.L. Sahu, PL

Hon'ble Smt. Justice Rajani Dubey**Order On Board****19.09.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 23/07/2010 passed by the learned Additional Sessions Judge, Bilaspur, in Cr. Appeal No. 36/2010 whereby, the learned appellate Court below has confirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Lormi, vide its judgment dated 22/11/2010 in Criminal Case No. 539/2009 for the offence under Sections 454 and 380 of IPC and sentenced him to undergo R.I. for 2 years with fine of Rs. 300/- and R.I. for 2 years with fine of Rs. 200/-, plus default stipulation respectively.

2. Brief facts of the case are that on 09.12.2007 at about 10.00 AM when the complainant was in his house, Kamla Bai (PW-2) found that some unknown person has broken the lock of her box and stolen some golden and silver & other ornaments worth of Rs. 65,000/-. 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 10 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 impugned judgment of conviction and order of sentence dated 22/11/2010, learned Judicial Magistrate, First Class, has convicted and sentenced the applicant for the offence under Sections 454 and 380 of IPC and sentenced him to undergo R.I. for 2 years with fine of Rs. 300/- and R.I. for 2 years with fine of Rs. 200/-, plus default stipulation respectively. This order was appealed by the applicant and in the appeal, learned Appellate Court has affirmed the conviction and sentence of the appellant. 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 she 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 2007, and thereby more than 12 years have rolled by since then. He is aged about 50 years. The applicant has already remained in jail for more than 3 months, 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 preposition.

8. Having gone through the material on record and the evidence of the witnesses Lal Ji (PW-1), Kamla Bai (PW-2), Manohar Lal Sahu (PW-3) Rohit Kumar (PW-4), Shyamji Sahu (PW-7), Bhairav Prasad Mishra (PW-8), 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 454 and 380 of IPC

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2007, and further that the appellant had already remained in jail for more than 3 months, 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**