

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 469 of 2006**

1. Krishna Ram S/o Shri Punau Ram aged about 30 years, R/o Village Jheet, P.S.- Patan, District-Durg, Chhattisgarh.
2. Ramlal Patel S/o Shri Valiram Patel aged about 25 years, R/o Shantipara, Bhilai, District-Durg, Chhattisgarh.
3. Ghanshyam Patel S/o Shesh Narayan Patel, R/o Bhilai-3, District-Durg, Chhattisgarh.

---- Applicants**Versus**

- State Of Chhattisgarh, Through : District Magistrate, Durg, District-Durg, Chhattisgarh.

---- Respondent

For Applicants	:	Mr. Aman Kesharwani on behalf of Mr. Vivek Sharma, Adv.
For Respondent/State	:	Mr. Sameer Sharma, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****05/09/2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 28.07.2006 passed by the learned 4th Additional Sessions Judge, Durg, District-Durg in Cr. Appeal No. 48/2005 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, Durg, vide its judgment dated 03.02.2005 in Criminal Case No. 905/2001 for the offence under Section 394 of the IPC and sentenced them to undergo R.I. for 1-1 year with fine of Rs. 1,000/- - 1,000/- each, plus default stipulation.

2. Brief facts of the case are that complainant Janak Lal lodged a report that on 11.06.2001 at about 20:45 pm. near Dogiya Pond the applicants looted Rs. 440/- from him and during this loot they committed *Mar-Peet* with him. On this ground criminal case has been lodged against the present applicants after completion of investigation, charge sheet was filed and

charges were framed against the applicants.

3. So as to hold the accused/applicants guilty, the prosecution has examined as many as 11 witnesses and applicants examined 1 witness in their defence. Statement of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they 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 03.02.2005, learned Judicial Magistrate has convicted and sentenced the accused/applicants for the offence under Section 394 of the IPC and sentenced him to undergo R.I. for 1-1 year with fine of Rs. 1,000/- - 1,000/- each, plus default stipulation. This order was appealed by the applicants and in the appeal, learned Appellate Court has confirmed the conviction and sentence of the appellants. Hence, the present revision.

5. Learned 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 2001, and thereby more than 18 years have rolled by since then. The applicants have already remained in jail for more than one and half month, 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 the applicants may be reduced to the period already undergone by them.

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

7. 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 Janak Lal (PW-1), Jagat Ram (PW-2), Kraparam (PW-3), Rajendra Kumar (PW-6), Gangaram (PW-8), Badri Vishal Singh (PW-9), Sunil Jonathan (PW-10) and S. K. Agrawal (PW-11), established the involvement of the accused/applicants in the crime in question beyond reasonable doubt. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the applicants under Sections 394 of IPC.

9. As regards sentence, keeping in view the facts that incident had taken

place in the year 2001, and further that the applicants had already remained in jail for more than one and half month, 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 appellants, they are sentenced to the period already undergone by them. The appellants are on bail. Their bail bonds shall stand discharged.

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