

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 589 of 2007**

- Narayan S/o Dashrath aged about 27 years, R/o Village-Khairjhiti, P.S. Tumgaon, District- Mahasamund, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh, Through : P.S. Tumgaon, District- Mahasamund, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Bharat Sharma on behalf of Mr. Manoj Pranjpe, Adv.
For Respondent/State	:	Mr. Wasim Miyan, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****06/09/2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 24.09.2007 passed by the learned 1st Additional Sessions Judge, Mahasamund, in Cr. Appeal No. 73/2007 whereby, the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Mahasamund, vide its judgment dated 09.07.2007 in Criminal Case No. 647/2005 for the offence punishable under Section 380 of Cr.P.C. and sentenced him to undergo R.I. for 1 year and fine of Rs. 1,000/-, plus default stipulation.

2. Brief facts of the case are that on 22.08.2003 complainant Girdhari lodged an FIR before the police station Tumgaon alleging there in that the applicant has stolen Rs.

5,000/- from the pocket of the complainant, which has been just withdrawn from the bank by the complainant. After completion of investigation, charge sheet was filed and charge was framed against accused/applicant under Section 380 of Cr.P.C.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 6 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the circumstances appearing 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 09.07.2007, learned Judicial Magistrate has convicted and sentenced the accused/applicant for the offence punishable under Section 380 of Cr.P.C. and sentenced him to undergo R.I. for 1 year and fine of Rs. 1,000/-, plus default stipulation. 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 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 this revision as 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 2003, and thereby more than 16 years have rolled by since then. 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 proposition.

8. Having gone through the material on record and the evidence of the witnesses Girdhari (PW-1), Derhadash (PW-2), Dharamlal (PW-3), Ghasiram Sahu (PW-4), and Vinod Sharma (PW-6), established the 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 it is hereby maintained.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2003, and further that the applicant 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 applicant, he is sentenced to the period already undergone by him. The applicant is on bail. His bail bond will stand discharged.

Sd/-

(Rajani Dubey)
JUDGE