

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 48 of 2005

- Karu Shah S/o Heerupati Shah Aged About 35 Years R/o Barari, P.S. Barari Distt Katihar(Bihar) Present Add. Near Sheetala Mandir, Ram Nagar P.S. Gudiyari Raipur(C.G), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through PS Gudhiyari, District Raipur (CG)

---- Respondent

For Applicant	: Shri Abhishek Pandey, Advocate
For Respondent/State	: Shri Wasim Miyan, PL

Hon 'ble Smt.Justice Rajani Dubey

Order On Board

03/10/2019

The present revision arises out of the impugned order and judgment dated 10.12.2004 passed by the Sessions Judge, Raipur in Cr. Appeal No. 288/2004 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, Raipur vide its judgment dated 28.10.2004 in Cr. Case No. 132/2004 for the offence under Section 392 IPC and sentenced him to undergo RI for two years with fine of Rs. 200/-, plus default stipulation.

2. Facts of the case in brief are that on 01.05.2004, at about 10.00 am, report was lodged by the complainant at police Station Gudhiyari alleging that in the morning at about 9.00 am., when she was all alone

at the house and her husband has gone to work, the applicant came to her and asked her to give the jewelery for cleaning, she removed the anklets and gave it to him and went inside the room. It is alleged that when she went inside, the applicant also followed her and snatched the *mangalsutra* and was about to run, she shouted and then the people of the nearby vicinity caught hold of him and handed him to the police. Investigation was done and charges were framed against the accused/applicant under Section 392 IPC.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 07 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded his innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment and order dated 28.10.2004, learned Magistrate has convicted the accused/applicant for the offence under Sections 392 IPC and has sentenced to undergo RI for two years with fine of Rs. 200/-, with default stipulation. This order was appealed by the applicant and in the appeal, learned appellate Court has confirmed the conviction and sentence awarded to the applicant under Section 392 IPC. 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 the

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 the counsel for the applicant, the incident is said to have taken place in the year 2004 and the applicant has already remained in jail for about more than 8 months, looking to the over-all circumstances and the fact that the accused has remained behind the bars for considerable time, it will be just and proper if the sentence awarded by the trial court for offence under Sections 392 IPC and affirmed by the appellate court is reduced to the period already undergone by him, since no useful purpose would be served by sending the applicant again to prison and prayed for leniency. To this, counsel for the State has no serious objection.

7. Now, having regard to the facts and circumstances of this case and that the occurrence having taken place on 01.05.2004, the applicant having suffered incarceration for more than eight months, this Court feels that while confirming the order of conviction, it would be appropriate to modify and reduce the sentence of imprisonment to the period already undergone by him.

8. Consequently, the revision is partly allowed. The conviction of the applicant passed by the trial Court and affirmed by the appellate Court under Section 392 of IPC is hereby maintained. However, the applicant is sentenced to the period already undergone by him.

Sd/-
(Rajani Dubey)
Judge