

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 353 of 2005

Ashok Kumar, aged about 32 years, Son of Shri Malik Ram Verma,
resident of Village Sabar Police Station Kasdo, Tah, Kasdol, District
Raipur, CG.

---- Applicant

Versus

State of Chhattisgarh through the Station House Officer, P.S. Kasdol,
Tahsil Kasdol, District Raipur, CG.

--- Respondent

For Applicant : Shri C.D. Sharma, Advocate

For State/Respondent : Shri D.P. Singh, Dy. GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

23/01/2019

On 20.06.1992 FIR (Ex. P-1) was lodged by Ram Kumar (PW-1) alleging that on 18.06.1992 when he along with his wife and other family members had been to his field, accused/applicant gained and entry in his house and committed theft of Rs. 25,000/- and some ornaments. After completion of investigation, charge-sheet was filed against the applicant under Sections 454 and 380 IPC and charge framed accordingly.

2. By judgment dated 11.01.2005 learned trial Court convicted the accused/applicant u/s 454 and 380 IPC and imposed the sentence of RI for six months with fine of Rs. 800/- u/s 454 and RI for one year with fine of Rs. 1,000/- u/s 380 IPC, plus default stipulations. In appeal also, the conviction and sentence recorded by the trial Court have been affirmed. Hence this revision.

3. Counsel for the accused/applicant does not assail the conviction part of the judgment impugned and his only request is that looking to the incident being quite old and also considering the fact that he has remained under detention for 42 days, the jail sentence imposed on him may be reduced to the period already undergone and thereby his well settled family life may be protected from being up-rooted at this stage. State counsel however, supports the judgment impugned.

4. Statement of Anita (PW-4) who alone was in the house has stated that the accused/applicant had come to his house and asked her to go elsewhere. When she first declined to heed to his words, the accused/applicant threatened her of beating. After she returned, the accused/applicant was found inside and the door was also bolted. According to the investigating officer, on the memorandum of accused/applicant Ex. P-3 currency notes of various denominations were seized under Ex. P-4. Yaswant (PW-5) has also stated that when he returned home, Anita (PW-4) informed him about the door being broken and theft committed. (PW-5) also found the almirah and iron box to be damaged. Further, on the basis of memorandum of the accused/applicant, silver ornaments and the cash amount were also seized. Ram Kumar (PW-1) has also stated that when he had gone to the field, accused/applicant broke into the house and committed theft of Rs. 25,000/- cash and the silver ornaments worth Rs. 1710/-. This fact was disclosed to him by his daughter (PW-4). The witnesses to memorandum and seizure though have not supported the case of the prosecution but they have admitted their signatures on the same. In this view of the matter, the conviction of the accused/applicant u/s 454 and 380 IPC does not appear to be off the record and therefore it is maintained.

5. However, looking to the fact that incident had taken place in the year 1992 and thereby more than 27 years has passed-by, and further that the accused/applicant has already remained inside for 42 days, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone, so that his already settled family life is not landed in crises. Order accordingly.

6. Revision allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge