

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 197 of 2013

- Vimal Dewangan, S/o Late Krishna Kumar Dewangan, Aged About 33 Years, R/o Nehru Chowk, Adarsh Nagar, Matpara, Raipur, PS Tikrapara, District - Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through PS Abhanpur, Raipur, Distt. Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Shri C.R. Sahu, Adv.
For Respondent/State	:	Shri Anant Bajpayee, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

16.07.2019

The present revision arises out of the impugned order and judgment of conviction and order of sentence dated 13.03.2013 passed by the Learned Seventh Additional Session Judge, Raipur, District – Raipur, in Cr. Appeal No. 187/2012, whereby the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant awarded by the learned Judicial Magistrate first Class, Raipur, vide its judgment dated 15.10.2012 in Cr. Case No. 1038/2010 for the offence under Sections 457 and 380 of the IPC, and sentenced him to undergo SI for six months along with fine of Rs. 200/- and SI for six months along with fine of Rs.200/-, with default stipulations.

2. Brief facts of the case are that the complainant has lodged an FIR on 08.06.2000, that when the complainant along with his family members slept in the night of 07.06.2000, after 11.00 p.m., some unknown persons committed theft in his house and took ornaments costing Rs.52,000/-, cash of Rs.30,250/- and some documents from his house. The FIR was lodged by the complainant against the unknown persons. During investigation, the stolen ornaments and cash has been seized from the applicant and other co-accused persons. After filing of charge-sheet, charges were framed against the accused/applicant under Section 457 and 380 of the IPC and other co-accused under Section 414 IPC.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 15 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 innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 15.10.2012, learned Judicial Magistrate First Class has acquitted the other co-accused Mahesh and convicted the accused/applicant and other co-accused Jitendra under Sections 457 and 380 of the IPC, and sentenced them to undergo RI for six months along with fine of Rs. 200/- and RI for six months along with fine of Rs.200/,-(each) plus default stipulations. This order was appealed by the applicant and in the appeal, learned appellate Court has confirmed the conviction and sentence of the applicant. 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 2000 and thereby more than 19 years have rolled by since then, he is aged about more than 50 years, the applicant has already remained in jail for about more than two months and no useful purpose would be served in again sending him to jail. Therefore, it would be in the interest of justice if the sentence imposed on him may be reduced to the period already undergone by him.

7. Learned State counsel has no objection to this proposition.

8. Having gone through the material on record and the evidence of the witnesses including Patiram(PW-1), Jagdish Sahu Hasda(PW-2), Dehrin Bai (PW-3), Basant Bai (PW-4), Chandrahas Sahu (PW-5), Gangaram Sen(PW-6), Rajendra Kurre(PW-7), Buddha Bai(PW-8), Ranju Bai Sahu(PW-9), Basant Kumar Sahu(PW-10) and Navratan Jain(PW-11) establishes the involvement of the accused/applicant in the crime in question. This Court does not find any illegality in the findings recorded by both the Courts below as regards conviction of the applicant under Sections 457 and 380 of the IPC, being so they are hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 2000 and further that the applicant has already remained in jail for about more than two months, the revision is partly allowed. Conviction part of the impugned judgment is

maintained. Applicant is reported to have remained in jail for a period of more than two months. His sentence is reduced to the period already undergone by him.

10. The applicant is on bail. His bail bond shall stand discharged.

11. Revision, thus, partly succeeds.

Sd/-
(Rajani Dubey)
JUDGE