

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 264 of 2013

Smt. Janki Bai Yadav W/o Mahendra Yadav Aged About 35 Years R/o
Gadhpara, Aantagarh, District North Baster Kanker C.G., Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh S/o Through - The District Magistrate Kanker, District
North Baster Kanker C.G., Chhattisgarh.

---- Respondent

For Applicant	: Mr. Amit Kumar Sahu, Advocate
For Respondent/State	: Mr. Sanjay Pathak, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

13-11-2019

1. This revision petition has been brought for challenging the conviction and sentence against the applicant by the trial Court which has been upheld by the appellate Court.
2. The applicant was prosecuted for the offence under Section 34(1)(a) of the Chhattisgarh Excise Act on the ground that on 19.3.2011, she was found in possession of 3.5 liters of country-made liquor. The trial Court in Criminal Case No. 536 of 2011 convicted the applicant by judgment dated 28.9.2012 and sentenced her with RI for 6 months and to pay fine of Rs.7,000/-. The Sessions Court in Criminal Appeal No. 29 of 2012 by judgment dated 10.4.2013 has upheld the conviction and sentence imposed upon the applicant. Hence, this revision.
3. It is submitted by learned counsel for the applicant that the sentence of imprisonment is on the higher side and contrary to the provisions of law which was in force at that time. The applicant could have been punished with the minimum sentence. Hence, it is prayed that the

sentence of RI be modified.

4. Learned Counsel appearing for the respondent/ State opposes the submission so made and submits that, the case against the applicant has been proved beyond reasonable doubt and the sentence of RI imposed upon her is reasonable, therefore, the revision petition be dismissed.
5. Heard both counsel for the parties and perused the material available on record.
6. The case is of the year 2011. It is informed that the applicant has already undergone detention in jail for about 18 days and challenge to the conviction is not being pressed at this stage. Therefore, the only consideration is to be made with regard to the minimum sentence which could be imposed upon the applicant. The incident is of 19.3.2011 and at that time the minimum sentence for the offence in which the applicant is convicted was one month alongwith minimum fine of Rs.7,000/-, before the amendment was brought by making an extension of minimum sentence of six months, which became effective from 30.4.2011. The applicant has already been sentenced with fine of Rs.5,000/- which she has paid in the trial Court.
7. Therefore, after due consideration of all the facts and circumstances and also that the applicant is a woman, I am of this opinion that the relief of reduction in sentence can be granted to the applicant. Hence, this revision petition is allowed with modification. The conviction against the applicant is upheld, however, her sentence of imprisonment is reduced to one month RI instead of what was imposed by the trial Court and was upheld by the appellate Court. The fine sentence imposed by the Courts below remains as it is.

8. Accordingly, this revision petition stands disposed of. The applicant shall be required to surrender before the trial Court for undergoing the remaining sentence of RI imposed upon the applicant.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi