

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 655 of 2011

Harish Chandrakar @ Golu S/o Deenbandhu Chandrakar, R/o Borid,
P.S. Arang, District Raipur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh through the P.S. Arang, District Raipur,
Chhattisgarh.

---- Respondent

For Applicant	: Mr. Rajesh Tiwari, Advocate.
For Respondent/ State	: Shri Shrikant Kaushik, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

26-02-2020

Heard.

1. This revision petition has been brought challenging the order of conviction and sentence passed against the applicant in Criminal Appeal No. 101 of 2011.
2. The applicant was charged and tried for the offences under Sections 454 and 380 of the IPC. The trial Court in Criminal Case No. 13 of 2010, convicted the applicant for the offences mentioned herein-above and sentenced him with rigorous imprisonment for one year alongwith fine of Rs.500/- under Section 454 of the IPC and RI for one year alongwith fine of Rs.500/- for the offence under Section 380 of the IPC with default stipulations. This judgment of conviction and sentence was challenged in Criminal Appeal No. 101 of 2011 which has been decided on 11.11.2011. The conviction under Section 380 of the IPC was upheld and the conviction of the applicant under Section 454 was set aside. However, the sentence imposed upon the applicant, RI for one year was

reduced to three months only, fine sentence was enhanced to Rs.2,500/- with default stipulation.

3. It is submitted that after filing of this revision petition, the applicant was granted bail on 18.11.2011. Subsequent to that, he has been regularly appearing before the trial Court. It is a special case in which the applicant is the person who has committed theft in the house of his grandfather. The applicant has already suffered the rigor of trial and also undergone some period of detention in jail which is in total 29 days. It is almost 10 years the applicant is facing the litigation, therefore, the only prayer is that the applicant be sentenced with period of detention already undergone by him in jail and this revision be disposed off.
4. Learned State counsel opposes the submissions made in this respect. It is submitted that the conviction against the applicant is under Section 380 of the IPC, which is a serious offence and the applicant should not be lightly let off with the sentence of period already undergone by him in jail, therefore, the revision and the prayer be dismissed.
5. On perusal of the evidence present in the record of the trial Court, it is found that the conviction under Section 380 of the IPC is well founded, which needs no interference, however, the other circumstances which are present are needed to be considered.
6. The mitigating circumstances that are in favour of the applicant are that he has committed theft in the house of his own grandfather, secondly, the applicant does not have any criminal antecedents and apart from this prosecution, there is no report that the applicant being prosecuted in any other offences, which shows that he is leading a normal life as a law abiding citizen and almost 10 years have passed since the applicant was sentenced. Therefore, for the sake of betterment of the applicant himself, it appears that no purpose would be served if the applicant is

again directed to be detained in jail for serving out the remaining part of the sentence. Hence, I allow the prayer made for reduction of sentence. The revision petition is allowed with a modification. The conviction is maintained, however, the sentence of imprisonment against the applicant is set aside and it is directed that he shall be sentenced with period of detention already undergone by him in jail. Fine sentence imposed by the trial Court which has been enhanced by the Appellate Court shall remain as it is.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nimmi