

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 952 of 2017

- Amitabh Divya S/o Sonau Divya, Aged About 28 Years, Caste Satnami, R/o Village Ghivra, Police Station Birra, District Janjgir-Champa, Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through The Police Station Birra, District Janjgir- Champa, Chhattisgarh.

---- Respondent

For Appellant	:Mr. Vijay Kumar Sahu, Advocate.
For State/Respondent	:Mr. Ravi Maheshwari, Panel Lawyer.

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

22.07.2021

1. This appeal has been preferred against the judgment dated 17.03.2017 passed in Session Trial No.112/2016 by the learned Sessions Judge, Janjgir, Distt. Janjgir-Champa (C.G.) wherein, the Appellant has been convicted for the offence punishable under Section 394 of the IPC and sentenced to undergo RI for 10 years and to pay fine of Rs. 100/-, with default stipulation.
2. According to the case of prosecution, complainant Neeka Bai (PW-1), lodged a report in concerned Police Station to the effect that on 15.05.2016 at around 8:00 AM, when she went to her field, at that time the Appellant was present on spot, he came near to her, assaulted her and looted golden chain and

golden ear rings from her and ran away from the spot. On the basis of said report, offence has been registered. During course of investigation, the looted articles were seized from the possession of the Appellant which were also identified by the complainant. Later on statements of witnesses recorded under Section 161 of Cr.P.C. After completion of investigation, charge-sheet was filed by the Police. Trial Court framed the charges against the Appellant. To prove the Appellant in the crime-in-question, the prosecution has examined as many as 10 witnesses. In the statement of the Appellant recorded under Section 313 of Cr.P.C, he has pleaded his innocence and false implication in the matter, however, no defence witness was examined by the Appellant. After completion of trial, the Trial Court convicted and sentenced the Appellant as mentioned in Para 01 of this judgment. Hence, this appeal.

3. Learned Counsel appearing for the Appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that looted articles is amounting to rupees twenty thousand only and injuries of the complainant was also simple in nature. The Counsel lastly submits that the Appellant is in jail since 16.05.2016 and completed more than 5 years of jail sentence, he has no criminal antecedent and has facing the *lis* from last five years. Therefore, the jail sentence awarded to the Appellant may be reduced to the period already undergone by

him.

4. On the contrary, learned State Counsel opposed the appeal and supported the impugned judgment.
5. I have heard learned counsel appearing on behalf of the parties and perused the record minutely.
6. Considering the above facts and circumstances of the case, particularly considering the fact that the Appellant is in jail since 16.05.2016 and completed more than 5 years of jail sentence, he has no criminal antecedent and has facing the *lis* from last five years. I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the jail sentence awarded to him is reduced to the period already undergone by him.
7. Consequently, the appeal is partly allowed. The conviction of the Appellant under Section 394 of the IPC is affirmed and against the conviction he is sentenced to the period already undergone by him. The fine sentence for the above offence is also affirmed.
8. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge