

**IN THE HIGH COURT OF MADHYA
PRADESH**

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE PREM NARAYAN SINGH

CRIMINAL REVISION No. 1708 of 2024

LAADSINGH

Versus

THE STATE OF MADHYA PRADESH

Appearance:

Shri Manish Yadav, learned counsel for the petitioner.

Shri H.S. Rathore, learned Government Advocate for the respondent/
State.

Heard on : 18.07.2024

Pronounced on : 05.08.2024

This revision having been heard and reserved for order, coming on for pronouncement this day, the Court passed the following :

ORDER

With the consent of the parties heard finally.

1. This criminal revision under Section 397 & 401 of Cr.P.C. has been filed by the petitioner being aggrieved by the judgment dated 22.03.2024, passed by the learned Principal Sessions Judge, District

Shajapur in Cr.A. No.18/2024, wherein the appeal filed by the petitioner has been dismissed and affirmed the judgment dated 05.02.2024, passed by learned Judicial Magistrate First Class, District Shajapur in RCT No.452/2023, in which the petitioner has been convicted for the offence under Section 392 of IPC, sentenced to undergo three years R.I. with fine of Rs.1,000/- and usual default stipulation.

2. Prosecution story in nutshell is that, the complainant reported that on 13.03.2023, when he was returning to Bardia, two unknown persons came in front of him and kicked him due to which complainant fell down. After that, they looted mobile phone amounting to Rs.5,000/- and Scooty amounting to approximately Rs.40,000/-. On the basis of which, FIR bearing Crime No. 45/2023 was registered against unknown persons for the offence punishable under Section 392 of IPC.

3. During investigation, spot map was prepared, and statements of the witnesses were recorded. After completion of investigation, charge-sheet was filed and thereafter the trial was conducted by the JMFC.

4. The prosecution has examined as many as 09 witnesses namely Babulal Hanotiya (PW-1), Rakesh Hanotiya (PW-2), Roopesh Hanotiya (PW-3), Sanjay Dashlaniya (PW-4), Kailashchandra Hanotiya (PW-5), Rakesh (PW-6), Gaurav Porwal (PW-7), Keshar Singh Rajput (PW-8), Enim Toppo (PW-9). No witness has been examined in support of the defence by the petitioner.

5. The learned trial Court having relied upon the testimonies of the prosecution witnesses and other documents like FIR, thereafter, convicted the petitioner for the offences as mentioned in para-1 of this judgment.

6. Learned counsel for the petitioner submitted that the trial Court has not properly appreciated the evidence available on record. There is no connecting evidence to prove the fact that petitioner committed loot. It is also submitted that there are material contradictions and omission in statement of prosecution witnesses but the trial Court has glazed over these irregularities.

7. The petitioner has preferred this criminal revision on several grounds but during the course of arguments, learned counsel for the petitioner did not press this revision on merits and not assailed the finding of conviction part of judgment. He confines his argument on the point of sentence only and prays that since the petitioner has already undergone **approximately more than one year** out of total incarceration, his sentence be reduced to the period already undergone. The petitioner deserves some leniency as he has already suffered the ordeal of the trial since 2023 for a period of 01 year. It is also submitted that as per law, no minimum punishment is prescribed for the said offence and thereupon, it can be reduced to the period already undergone. It is further contended that this petition be partly allowed and the sentence awarded to the petitioner be reduced to the period already undergone by enhancing the fine amount.

8. Learned counsel for the State, on the other hand, supported the impugned judgment and prayed for dismissal of this revision. It is

further submitted that the learned trial Court has passed the impugned judgment after considering each and every circumstance of the case and convicted the petitioner rightly.

9. Having considered the rival submissions and I have gone through the record.

10. It is found that the Court below considered the evidence available on record and correctly found that the case of the prosecution is well supported by the witnesses and documentary testimony. The procedure was well followed by the prosecution and the witnesses of prosecution have profoundly supported the prosecution case. The Court below has well considered the material available on record, hence, no infirmity is found in the impugned order of conviction passed by the Court below, accordingly, the same is upheld.

11. So far as the sentence of 03 years and fine amount is concerned, no criminal past has been adduced by the prosecution, the age of the petitioner is 32 years at the time of filing of this revision, hence, considering the other facts and circumstances of the case, punishment under Section 392 of IPC is required to be reduced from 03 years to 02 years and fine amount does not warrant any interference.

12. In upshot of aforesaid discussion in entirety, revision is partly allowed. Affirming the conviction under Section 392 of IPC, sentence for the offence, is reduced from 03 years R.I. to 02 years R.I. The fine amount is hereby affirmed. If the petitioner fails to deposit the

fine amount, he shall suffer 03 months of simple imprisonment in default.

13. On completion of 02 years of sentence, the petitioner is set at liberty to release forthwith if not required in other case.

14. With the aforesaid observations and directions, the appeal stands dispose of.

15. The order of learned trial Court regarding disposal of the seized property, if any, stands confirmed.

16. A copy of this order be sent to the concerned trial Court for necessary compliance.

17. Pending application, if any, stands closed.

Certified copy, as per rules.

(PREM NARAYAN SINGH)
JUDGE

Vindesh