
(1977) 03 BOM CK 0038
In the Bombay High Court

Sampat Chimaji Dige

APPELLANT

Vs

The State of Maharashtra

RESPONDENT

Date of Decision : 22-03-1977

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 360
Penal Code, 1860 (IPC) — Section 380

Citation : (1978) CriLJ 823

Hon'ble Judges : Deshmukh, J;Aggarwal, J

Bench : Division Bench

Judgement

Deshmukh, J.—The petitioner has been convicted u/s 380 of the I.P.C. on his own admission and is sentenced to suffer R.I. for three months and to pay a fine of Rs. 100 in default to suffer further R.I. for 20 days. The petitioner filed a revision application in the Court of Sessions, Greater Bombay, but it was summarily rejected. Hence this application.

2. We issued rule and the Public Prosecutor accepted notice. The matter was immediately heard on merits. The counsel for the petitioner says that the accused is aged only about 22. The theft he committed was in the house of his own maternal uncle. Not only he candidly admitted the guilt, but out of Rs. 1,500 that were stolen Rupees 1,400 have been returned to the maternal uncle. The petitioner had been in jail for about 22 days. In the circumstances, the counsel prays that the substantive sentence be reduced to that which is already undergone. He further says that the petitioner will pay the fine of Rs. 100 but he should be given time of 8 days.

3. This is a case where the applicability of Section 360 Cr.PC could have been considered by the learned trial Magistrate. However, this is not done in this case. Since the only prayer now made before us is to reduce the substantive sentence to which the accused has already undergone, we think that looking to the age of the accused and the circumstances of the case that prayer should be accepted. We thus allow this revision application and reduce the substantive sentence to

which it has already been undergone by the accused.

4. The accused is already on bail. We grant him 8 days time to pay the fine of Rs. 100 in default he will surrender to the bail for undergoing the sentence of 20 days in default of payment of fine. If, however, the fine is paid in time the bail bond shall be treated as cancelled.