

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Revision Petition No. 1117/2007

1. Shiva @ Shiv Lal S/o Shri Bagtaram, B/c Sansi, R/o Panch Batti Sansi Colony, Ratanada, Jodhpur.
2. Vijay S/o Shri Licchiram, B/c Sansi, R/o Panch Batti Sansi Colony, Ratanada, Jodhpur.

-----Petitioner

Versus

State of Rajasthan

-----Respondent

For Petitioner(s)	:	Mr. Gokulesh Bohra, through V.C.
For Respondent(s)	:	Mr. Vikram Singh Rajpurohit, PP

HON'BLE MR. JUSTICE MANOJ KUMAR GARG
Order

16/07/2025

Instant revision petition under Section 397/401 Cr.P.C. has been filed by the petitioners challenging the judgment dated 21.09.2007 passed by learned Addl. Sessions Judge Fast Track Court No.3, Jodhpur (hereinafter referred to as 'the appellate court') in Criminal Appeal No.23/2007 by which the appellate court dismissed the appeal of the petitioners and upheld the judgment dated 19.07.2006 passed by the learned Civil Judge (J.D.) & Judicial Magistrate Jodhpur, (hereinafter referred to as 'the trial court') in Criminal Regular Case No.416/2003, whereby, the learned trial court convicted the present petitioners for offence under Section 379 IPC and sentenced them for a period of six months' S.I. and a fine of Rs.500/- each and in default of payment of fine, they shall further undergone one month's S.I.

Brief facts of the case are that on 11.10.1998 complainant Narpat Singh, Associate Professor, JNVU, lodged a report at Police Station Shastri Nagar to the effect that petitioners had stolen an electric cable from the University premises. On this report, the police

registered the case against accused-petitioners for offence under Section 379 IPC and started investigation.

On completion of investigation, the police filed challan against the accused-petitioners for offence under Section 379 IPC. Thereafter, the charges of the case were framed against the accused-petitioners for offence under Section 379 IPC, who denied the charges and claimed trial.

During the course of trial, the prosecution examined six witnesses and also exhibited certain documents. Thereafter, statement of the accused-person was recorded under section 313 Cr.P.C.

Upon conclusion of the trial, the learned trial court vide impugned judgment dated 19.07.2006 convicted and sentenced the accused-petitioners for offence as mentioned earlier.

Aggrieved by his conviction and sentence, the petitioners preferred an appeal before the learned appellate court, which came to be dismissed vide judgment dated 21.09.2007. Hence, this revision petition.

At the threshold, counsel for the petitioners do not challenge the finding of conviction but it is submitted that the occurrence relates back to year 1998 and the petitioners have so far suffered a sentence of about twenty four days, out of total sentence of six months' S.I. each. In such circumstances, it is prayed that the sentence awarded to the accused-petitioners for the offence under Sections 379 IPC may be reduced to the period already undergone by them.

On the other hand, the learned Public Prosecutor vehemently opposed the submissions made by the learned counsel for the

accused-petitioners. The learned Public Prosecutor submitted that there is neither any occasion to interfere with the sentence awarded to the accused petitioners nor any compassion or sympathy is called for in the said case.

I have perused the evidence of the prosecution as well as defence and the judgment passed by the courts below regarding conviction of the accused-petitioners.

It is not disputed that the occurrence has taken place in the year 1998 and the accused-petitioners have so far undergone a period of about twenty four days' incarceration, out of total sentence of six months' S.I., and so also suffered the mental agony and trauma of protracted trial. Thus, looking to the over-all circumstances and the fact that the accused-petitioners have remained behind the bars for considerable time, it will be just and proper if the sentence awarded by the trial court for offence under Section 379 IPC and affirmed by the appellate court is reduced to the period already undergone by them.

Accordingly, the criminal revision petition is partly allowed. While maintaining the petitioners' conviction for offence under Section 379 IPC the sentence awarded to them for aforesaid offences is hereby reduced to the period already undergone. The fine amount, as imposed by the learned trial court is waived, if already not deposited. The petitioners are on bail. They need not surrender. Their bail bonds stand discharged. The record of the courts below be sent back forthwith.

(MANOJ KUMAR GARG),J