

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

S.B. Criminal Revision Petition No. 425/2025

Dhanpat S/o Rameshwar, Aged About 23 Years, R/o Dhigataniya,
P.s. Sadar, Sirsa, Dist. Sirsa, Haryana (Lodged In Central Jail,
Bikaner)

-----Petitioner

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Petitioner(s)	:	Mr. Budha Ram Choudhary
For Respondent(s)	:	Mr. K.S. Kumpawat, assistant to Mr. Deepak Chowdhary, GA-cum-AAG

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Judgment

16/07/2025

1. Instant revision petition has been filed by the petitioner challenging the judgment dated 29.01.2025 passed in Cr. Appeal No.48/2024 by learned Sessions Judge, Churu (hereinafter referred to as 'the appellate court') by which the appellate court while dismissing the petitioner's appeal, upheld the judgment dated 10.10.2024 passed in Criminal Case No.851/2023 by learned Chief Judicial Magistrate, Churu (hereinafter referred to as 'the trial court') whereby, the learned trial court convicted and sentenced the present petitioner as under:-

Offence	Sentence	Fine	Sentence in default of fine
Section 457/34 IPC	2 years' R.I.	Rs.1,000/-	1 month's S.I.
Section 380/34 IPC	1 year's R.I.	Rs.1,000/-	1 month's S.I.

2. Both the sentences were ordered to run concurrently and the period spent in judicial custody shall be adjusted in the original imprisonment.
3. Brief facts of the case are that on 28.01.2023, complainant Imran submitted a report at Police Station Kotwali Churu to the extent that a theft was perpetrated at his house on the preceding night. He submits that some unknown person unauthorisedly entered his house and stole some cash & jewellery. On this report, Police registered a case and started investigation.
4. On completion of investigation, the Police filed challan before the concerned court. Thereafter, the trial court framed the charges for offences under Sections 457 & 380 of IPC against the petitioner, who pleaded not guilty and claimed trial.
5. During the course of trial, the prosecution examined as many as 10 witnesses in support of its case and exhibited certain documents. Thereafter, statement of the accused-petitioner under section 313 Cr.P.C was recorded.
6. Upon conclusion of the trial, the learned trial court vide impugned judgment dated 10.10.2024 convicted and sentenced the accused-petitioner for aforesaid offence.
7. Being aggrieved by his conviction and sentence, the petitioner preferred an appeal before the learned appellate court, which came to be dismissed vide judgment dated 29.01.2025. Hence, this revision petition against the conviction and sentence of the accused-petitioner.
8. At the threshold, learned counsel for the accused-petitioner submits that he does not challenge the finding of conviction but since the occurrence is related to the year 2023 and out of total

sentence of two years' R.I., the accused petitioner has already served more than ten months of imprisonment and now he is in judicial custody, therefore, it is prayed that the sentence awarded to the petitioner for the aforesaid offences may be reduced to the period already undergone by him.

9. On the other hand, learned Public Prosecutor opposed the submissions made by the learned counsel for the accused-petitioner and submitted that there is neither any occasion to interfere with the sentence awarded to the accused petitioner nor any compassion or sympathy is called for in the said case.

10. 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-petitioner.

11. Undisputedly, the incident relates back to the year 2023 and the petitioner has so far undergone more than ten months' in custody out of total two years of sentence, he has also suffered the agony and trauma of protracted trial. Thus, looking to the over-all circumstances and the fact that the petitioner has remained behind the bars for some time, it will be just and proper, if the default sentence awarded by the trial court for offence under Sections 457/34 and 380/34 of IPC and affirmed by the appellate court is reduced to the period already undergone by the petitioner.

12. Accordingly, the revision petition is partly allowed. While maintaining the petitioner's conviction for offences under Sections 457/34 and 380/34 of IPC, the sentence awarded to him for the aforesaid offence is hereby reduced to the period already undergone. The amount of fine imposed by the trial Court is hereby waived, if not already deposited by him.

13. The accused-petitioner is in custody and shall be released forthwith, if not required in any other case.
14. Pending applications, if any, shall stand disposed of.
15. Record of the courts below be sent back forthwith.

(MANOJ KUMAR GARG),J

179-Rashi/-