

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.3396 of 1999

Ram Kumar, S/o Tiharu Sahu, aged 35 years, R/o Bhatgaon, Police Station Bilaigarh, At present, R/o Village Pendrawan, P.S. Sarseenwa, District Raipur (M.P.) (now Chhattisgarh)

---- Appellant

versus

State of Madhya Pradesh (now Chhattisgarh)

--- Respondent

For Appellant	:	Shri Shivendu Pandya, Advocate
For State/Respondent	:	Shri Sameer Behar, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

29.8.2017

1. This appeal is directed against the judgment dated 14.12.1999 passed in Special Sessions Trial No.152 of 1998 by the Special Judge under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (henceforth 'the Act of 1989'), Raipur convicting the accused/Appellant under Section 354 of the Indian Penal Code and sentencing him to undergo rigorous imprisonment for 6 months and to pay fine of Rs.2,000/- with default stipulation.
2. Case of the prosecution, in brief, is that on 20.11.1998, the prosecutrix (PW-2), aged about 11 years, had gone to her school for studying. The accused, who was a teacher in the said school, called the prosecutrix and her friend Ku. Ambikabai (PW-3) in his office. After sometime, the accused sent back Ambikabai (PW-3) and thereafter caught the left hand of the prosecutrix and made her catch his penis with her that hand. After that, the prosecutrix removed her hand from the penis of the accused. She then running and weeping came back to her classroom and narrated the

incident to Ambikabai (PW-3), Rajkumari, Shakuntalabai and Savitribai. Thereafter, she returned her home and narrated the incident to her grand mother Bhuribai (PW-4). Since her father Dularsai (PW-1) was out of village, she again returned to the school along with her uncle Laharam (PW-5) and some villagers. Uncle Laharam (PW-5) and the villagers asked about the incident from the accused. The accused denied about any such incident. Dularsai (PW-1), father of the prosecutrix, on his return to home, submitted a written report (Ex.P-1), on the basis of which, First Information Report (Ex.P-2) was registered. After investigation, a charge-sheet under Section 509 of the Indian Penal Code and Section 3(1)(x)(xii) of the Act of 1989 was filed against the accused.

3. The Trial Court framed charges under Section 3(1)(xi) of the Act of 1989 read with Section 354 of the Indian Penal Code and Section 3(1)(xii) of the Act of 1989.
4. To hold the accused guilty, the prosecution examined 10 witnesses in support of its case. Statement of the accused was also recorded under Section 313 Cr.P.C. in which he denied the charges framed against him and pleaded innocence and false implication in the case.
5. After hearing the parties and appreciation of the evidence available on record, the Trial Court convicted and sentenced the accused as mentioned in the first paragraph of this judgment.
6. Learned Counsel appearing for the Appellant submits that he does not press this appeal on merits and confines his argument to the sentence part only. He further submits that the matter is of the

year 1998 and out of the total jail sentence of 6 months, the Appellant has already undergone the period of about 15-16 days. He further submits that the Appellant has no criminal antecedent and he is facing the *lis* since 1998, i.e., for about 19 years. Therefore, the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.

7. On the contrary, Learned Counsel appearing for the State supporting the impugned judgment submitted that the same does not warrant any interference by this Court.
8. It is not in dispute that the matter relates to the year 1998 and the Appellant is facing the *lis* for the last 19 years. He has no criminal antecedent. Out of the total jail sentence of 6 months, he has already undergone the period of about 15-16 days.
9. Considering the above facts and circumstances of the case, I am of the considered opinion that the ends of justice would be served if, while upholding the conviction of the accused, the jail sentence awarded to him is reduced to the period already undergone by him and the amount of fine imposed upon him is enhanced to Rs.15,000/-.
10. Consequently, the appeal is allowed in part. The conviction imposed upon the accused/Appellant under Section 354 of the Indian Penal Code is upheld, but the jail sentence awarded to him is reduced to the period already undergone by him. The sentence of fine imposed upon him is modified and the amount of fine is enhanced to Rs.15,000/- payable within 2 months from the date of receipt of a copy of this judgment. In default of payment of the fine amount, the Appellant shall be liable to undergo rigorous

imprisonment for 1 month. The amount of fine already deposited shall be adjustable in the amount of fine imposed today.

11. It is reported that the Appellant is on bail. His bail bonds are not discharged at this stage and the same shall remain operative for a further period of six months from today in view of the provisions contained in Section 437A of the Cr.P.C.
12. Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge