

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 520 of 2004

Order reserved on : 01.03.2017

Order passed on : .03.2017

- Manohar, s/o Sukaloo Ram Gond, aged about 50 years, R/o Kota Goan, PS Mahamaya, Distt. Durg (CG)

---- Applicant

Versus

- State of Chhattisgarh

---- Respondent

For Applicant	:	Shri Praveen Durandhar, Advocate
For Respondent/State	:	Shri Sanjeev Pandey, GA

Hon'ble Shri Justice Anil Kumar Shukla

CAV Order

1) This revision petition has been filed against the judgment dated 05.10.2004 passed by the Additional Session Judge, Balod in Criminal Appeal No. 542 of 2003, whereby the learned Additional Session Judge has altered the judgment dated 04.11.2003 passed by the Judicial Magistrate First Class, Balod in Criminal Case No.235 of 2002, convicting the applicant for the offences punishable under Sections 452 and 354 of IPC and sentencing him to undergo three months' rigorous imprisonment on each count with fine of Rs.500/- under Section 452 IPC, with default stipulation.

2) The prosecution case in brief is that on 26.06.2001 at 4 pm prosecutrix/complainant was at her house in village Kotagaon. At that time, the applicant came in force into her house by kicking the door, made the complainant fell down and tried to molest her. Then the complainant gave a blow and came out of her house. She

informed the incident to her neighbours and reported the matter to Police Station Mahamaya. The Police registered a case against the applicant and on completion of the investigation, filed charge sheet against him under Sections 452 and 354 of the IPC before the Court of JMFC, Balod. After framing of charges and recording of evidence, the offences were found proved and the applicant was convicted and sentenced as above mentioned. An appeal was preferred by the applicant in which the sentence has been altered. Hence, this revision petition.

3) Learned counsel for the applicant submits that the applicant is not challenging his conviction. He further submits that he confines his argument to the sentence part only and prays to reduce the jail sentence awarded to the applicant to the period already undergone by him as he has been facing the case against him since 2001 and now he is 66 years old. The applicant was in jail for fifteen days during pendency of the *lis* and has been granted bail by this Court on 20.12.2004. Learned counsel for the applicant has further submitted that the applicant has no criminal antecedent and since the applicant has already served fifteen days' jail sentence, the same be reduced to the period already undergone by him. The applicant had paid the fine amount imposed upon him and receipt thereof is on record.

4) On the other hand, learned State counsel opposed the revision and supported the impugned judgment though not disputed the above facts.

5) It is not in dispute that the applicant is now about 66 years old; there is no criminal antecedent against him and the present offence is his first one, for which he faced trial, appeal and the present revision for the past 16 years. He remained in custody for fifteen days and the total sentence awarded to him is three months.

6) Considering all the facts and circumstances of the case, also considering the prayer of learned counsel for the applicant and particularly in view of old age of the applicant, as also considering his custody period as well as the period passed in trial, appeal and revision, I am of the considered opinion that ends of justice would be met if, while affirming the conviction, the jail sentence awarded to the applicant is reduced to the period already undergone by him. It would not be in the interest of justice to send him back to Jail after a long gap of 16 years.

7) In view of the foregoing discussion, I confirm the conviction of the applicant under Sections 452 and 345 of the IPC while modifying the sentence to the period already undergone by him.

8) It is reported that the applicant is on bail. His bail bonds are not discharged at this stage and shall remain operative for a further period of six months in view of the provisions contained under Section 437-A of the Cr.P.C.

9) A copy of this order be sent to the concerning court for necessary compliance.

Sd/-
(Anil Kumar Shukla)
JUDGE