

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.9 of 2004

Kirtan Ram, S/o Bhageshwar Kolta, aged 40 years, R/o Village Gala, Police Station Pathalgaon, District Jashpur, Chhattisgarh

---- Appellant

versus

The State of Chhattisgarh through Police Station Pathalgaon, District Jashpur, Chhattisgarh

--- Respondent

For Appellant	:	Shri Sanjay Agrawal, Advocate
For State/Respondent	:	Ms. Madhunisha Singh, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

21.11.2017

1. This appeal has been preferred against the judgment dated 20.12.2003 passed in Special Criminal Case No.25 of 2003 by the Special Judge under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (henceforth 'the Act of 1989'), Jashpur convicting and sentencing the accused/Appellant as under:

<u>Conviction</u>	<u>Sentence</u>
Under Section 323 of the Indian Penal Code	Rigorous Imprisonment for 3 months and fine of Rs.500/- with default stipulation
Under Section 354 of the Indian Penal Code	Rigorous Imprisonment for 1 year and fine of Rs.2,000/- with default stipulation
	The jail sentences are directed to run concurrently.

2. Brief facts of the case are that on 30.11.2001 at about 3:00 p.m., Complainant (PW1) submitted a written report (Ex.P1) in Police

Station Patthalgaon, District Jashpur alleging that in the intervening night of 29.11.2001 and 30.11.2001 at about 2:00 a.m., she had gone to Village Gala for watching orchestra with her friends Mayawati, Sita, Kaushilya, Gangotri and Chameli. At that time, the Appellant came there and tried to outrage her modesty and also assaulted her by giving two slaps. The offence was registered under Section 354 of the Indian Penal Code and Section 3(1)(xi) of the Act of 1989 vide First Information Report (Ex.P2). The caste certificate of the Complainant was seized vide Ex.P4. She was medically examined by Dr. L. Banodha (PW5). Medical examination report is Ex.P6. Statements of witnesses were recorded under Section 161 of the Code of Criminal Procedure. On completion of the investigation, a charge-sheet was filed against the Appellant for offence punishable under Sections 354 and 294 of the Indian Penal Code and Section 3(1)(xi) of the Act of 1989. Charge was framed against him under Section 3(1)(xi) of the Act of 1989. In the alternative, charges under Sections 354 and 323 of the Indian Penal Code were framed.

3. To hold the Appellant guilty, the prosecution examined as many as 9 witnesses. Statement of the Appellant was also recoded under Section 313 of the Code of Criminal Procedure in which he denied the guilt. No defence witness has been examined.
4. After trial, the Trial Court convicted and sentenced the Appellant as mentioned in the first paragraph of this judgment. Hence, this appeal.
5. Learned Counsel appearing for the Appellant submits that he does

not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that the Appellant is facing the *lis* since 2001, i.e., for the last 16 years. He has no criminal antecedent. Out of the total jail sentence of 1 year, he has already undergone 6 days. Therefore, Learned Counsel prays that the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.

6. On the contrary, Learned State Counsel opposed the prayer made by Learned Counsel for the Appellant and supported the impugned judgment.
7. Considering the above facts and circumstances of the case, I am of the opinion that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant under Sections 323 and 354 of the Indian Penal Code, the jail sentence awarded to him thereunder is reduced to the period already undergone by him. Ordered accordingly. The sentence of fine imposed against the conviction under Section 323 of the Indian Penal Code is affirmed, but the sentence of fine imposed against the conviction under Section 354 of the Indian Penal Code is enhanced to Rs.5,000/- payable within two months from the date of receipt of a copy of this judgment. In case of default of payment, the Appellant shall be liable to undergo simple imprisonment for six months. If any amount has already been deposited towards fine imposed against the conviction under Section 354 of the Indian Penal Code, the same shall be adjusted in the amount of fine imposed today.

8. Consequently, the appeal is allowed in part to the extent indicated above.
9. 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