

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 398 of 2004

1. Hurdo Ram son of Tokai Mahkul, aged about 40 years, occupation agriculturist, resident of village Kukurgaon, Thana Bagbahar, District Jashpur Nagar, CG

---- Applicant

Versus

1. The State of Chhattisgarh through the District Magistrate, Raigarh, CG

---- Respondent

For Applicant	:	Shri Awadh Tripathi, Advocate
For Respondent/State	:	Smt. Madhunisha Singh, PL

Order on Board by Pritinker Diwaker, J

26/04/2017

This revision petition has been filed by the applicant against the judgment and order dated 2.8.2004 passed by Additional Sessions Judge Jashpur, in Criminal Appeal No. 16/2003 affirming the judgment and order dated 9.3.2002 passed by Judicial Magistrate First Class, Dharamjaigarh in Criminal Case No. 674/1995 convicting the applicant for the offence punishable under Section 224 IPC and sentencing him to undergo RI for two years with fine of Rs. 2000/- plus default stipulation.

2. Case of the prosecution in brief is that in a case under Section 376 IPC at Crime No. 65/1995 after being arrested the applicant was produced for medical examination at Government Hospital, Bagbahra but before examination he ran away from the police custody in handcuff. Further case of the prosecution is that when the applicant could not be traced after search, the report to this effect was lodged by the constable based on which offence under

Section 224 IPC was registered and subsequently he was arrested, charge-sheeted and charge was framed by the trial Court under that Section.

3. In order to hold the accused/applicant guilty, the prosecution examined as many as six witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Code of Criminal Procedure where he denied his guilt and pleaded innocence and false implication in the case.

4. The trial Court, after considering the material available before it, convicted the accused/applicant under Section 224 IPC which has subsequently been affirmed by the lower appellate Court in appeal. Hence this revision.

5. Counsel for the applicant submits that he is not pressing this revision on merits and confining his argument to the sentence part of the judgment impugned only. He submits that as the applicant has already remained in jail for a period of 53 days, there is no minimum sentence provided under the law for the offence alleged and that the applicant ran away from police custody just because of illness of his daughter, a lenient view may be taken and his sentence may be reduced to the period already undergone.

6. Counsel for the respondent/State however supports the judgment impugned and submits that the findings recorded by both the Courts below are strictly in accordance with law and there is no infirmity in the same.

7. Heard counsel for the parties and perused the documents on record.

9. Karam Sai (PW-1) - the compounder of the hospital where the applicant was taken for medical examination has stated that all of a sudden the applicant was found missing and then the police started searching him but he remained untraced. Bhadroram (PW-2) has stated that he saw a handcuff lying outside his house which he deposited in the Bagbahar police station. Dr. K.D. Paswan (PW-3) is the witness who medically examined the accused/applicant has stated that before medical examination he ran away in handcuff on the pretext of answering short call of the nature. Arjun (PW-4) and Vijay Shankar (PW-5) are the witnesses to seizure of handcuff key. Dharamdev Nayak (PW-6) is the Police constable from whose custody the accused/applicant ran away.

10. Material on record thus clearly establishes the guilt of the accused/applicant where he ran away in handcuff from the police custody prior to his medical examination in a sex-related offence and thus committed the offence under Section 224 IPC. Witnesses examined by the prosecution have duly supported its case. Findings of both the Courts below are thus well reasoned and based on proper appreciation of the evidence of the witnesses. Being so, conviction of the applicant is hereby maintained. However, looking to the fact that the applicant has already remained in jail for a period of 53 days, that there is no minimum sentence provided for the offence alleged and that the applicant is said to have run away from police custody just because of illness of his daughter, this Court deems it proper to reduce his sentence to the period already

undergone. Order accordingly. He however is directed to pay a fine of Rs. 5,000/- before the Court below in addition to what has already been imposed on him. Failure in so doing, will not fetch him any benefit of this order.

11. Revision thus allowed in part to the extent indicated above.

Sd/-
(Pritinker Diwaker)
Judge

Jyotishi