

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.97 of 2005

Gajadhar alias Gajju, son of Bhujbal Naik, aged about 25 years, resident of H.S.C.L. Colony, Maroda, Bhilai Nagar, Tahsil and District Durg, Chhattisgarh

---- **Petitioner**

versus

The State of Chhattisgarh

--- **Respondent**

For Petitioner	:	Shri Suresh Tandon, Advocate
For State/Respondent	:	Shri Sameer Behar, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

21.7.2017

1. This revision has been preferred under Section 397 of the Code of Criminal Procedure against the judgment dated 21.2.2005 passed in Criminal Appeal No.325 of 2004 by the 1st Additional Sessions Judge, Durg by which the learned Additional Sessions Judge upheld the conviction imposed upon the Petitioner, but reduced the sentence awarded to him by judgment dated 4.10.2004 passed in Criminal Case No.34 of 2000 by the Judicial Magistrate First Class, Durg.
2. Case of the prosecution, in brief, is that on 9.2.2000 at about 11:30 p.m., the prosecutrix/complainant, aged about 14 years, was sleeping in her house with her parents. In the night, when she went to courtyard to attend the call of nature, the Petitioner entered her house by jumping the boundary wall. He caught her hand and asked her to come with him. When she shouted, her mother came there. In the meanwhile, the Petitioner ran away from there. First Information Report was lodged by the prosecutrix in Police Station Newai, District Durg. After investigation, a charge-sheet was filed against the Petitioner before the Judicial Magistrate First Class,

Durg. The Trial Court convicted the Petitioner under Sections 456 and 354 of the Indian Penal Code and sentenced him thereunder with rigorous imprisonment for 6 months and to pay fine of Rs.500/- with default stipulation and rigorous imprisonment for 3 months, respectively. Being aggrieved by the judgment of the Trial Court, the Petitioner preferred Criminal Appeal No.325 of 2004 before the Court of Session. The learned 1st Additional Sessions Judge, Durg, while upholding the conviction imposed upon the Petitioner under Sections 456 and 354 of the Indian Penal Code, reduced the sentence awarded to him to rigorous imprisonment for 1 month and to pay fine of Rs.250/- for the offence under Section 456 of the Indian Penal Code and to rigorous imprisonment for 1 month and to pay fine of Rs.250/- for the offence under Section 354 of the Indian Penal Code.

3. Learned Counsel appearing for the Petitioner submits that he does not press this revision on merits and confines his argument to the sentence part only. Learned Counsel further submits that the matter is of the year 2000 and out of the total jail sentence of 1 month, the Petitioner has already undergone the period of about 6-7 days. Learned Counsel further submits that the Petitioner has no criminal antecedent and he is facing the *lis* since 2000, i.e., for about 17 years. Therefore, the jail sentence awarded to the Petitioner may be reduced to the period already undergone by him.
4. On the contrary, learned State Counsel opposed the revision and supported the impugned judgment.
5. It is not in dispute that the matter relates to the year 2000 and the Petitioner is facing the *lis* for the last 17 years. He has no criminal

antecedent. Out of the total jail sentence of 1 month, he has already undergone the period of about 6-7 days.

6. Considering the facts and circumstances of the case, particularly, that the Petitioner is facing the *lis* for the last 17 years, out of the total jail sentence of 1 month he has already undergone the period of about 6-7 days and he has no criminal antecedent, I am of the considered opinion that the ends of justice would be served if, while upholding the finding of conviction, the jail sentence awarded to him is reduced to the period already undergone by him.
7. Consequently, the criminal revision is allowed in part. The conviction imposed upon the accused/Petitioner under Sections 456 and 354 of the Indian Penal Code is upheld, but the jail sentence awarded to him thereunder by the impugned judgment is reduced to the period already undergone by him. The sentence of fine imposed upon him by the impugned judgment is also affirmed.
8. It is reported that the Petitioner 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.
9. Records of the Courts below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge