

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 3022 of 1998**

Roop Kumar S/o Makhanlal Sahu, aged about 30 years R/o Gada Sarai, Police Station Bajag, Tahsil- Dindori, District- Mandla (M.P.) (Now Chhattisgarh)

---- Appellant

Versus

State of Madhya Pradesh (Now Chhattisgarh).

---- Respondent

For Appellant	:	Mr. R.S. Patel, Advocate
For Respondent	:	Mr. Ramakant Pandey, PL

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

17/07/2018

1. This appeal has been preferred against the judgment dated 11/12/1998 passed by the Second Additional Sessions Judge, Baloda-Bazar, Distt. Raipur in S.T. No. 172/1998, convicting the appellant under Section 363 of IPC and sentenced him to undergo RI for 3 years and to pay fine of Rs. 1000/- with default stipulation.
2. As per prosecution story on 31/03/1998, a minor daughter of Sadik Ram Yadav went with her two friends namely- Roshni and Bhoori sahu, but when she did not return, father of the prosecutrix and other persons searched her here and there, and then they came to know that she was climbed in a truck. The matter was reported to the police by the Sadil Ram. Police has registered the offence. During the course of investigation, the said truck was found near Grasim Cement

Factory. The prosecutrix was found there. It is alleged that the appellant was the driver of the said truck and he kidnapped the prosecutrix. Statement of witnesses under Section 161 of Cr.P.C. was recorded. After completion of investigation, a charge-sheet under Sections 363 and 366 of IPC was submitted. Charges were framed and after trial, the appellant was acquitted of charge framed under Section 366 of IPC and has been convicted under Section 363 of IPC and sentenced to undergo as mentioned in para 1 of this judgment.

3. Learned Counsel appearing for the appellant submits that he does not want to press this revision on merits and confines his argument to the sentence part only. It is further submitted that the appellant is facing the *lis* since 20 years and out of total jail sentence of 3 years, he has undergone for about 3 months, therefore, he prays that the jail sentence awarded to the appellant may be reduced to the period already undergone by him.
4. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
5. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
6. Considering the above facts and circumstances, particularly considering that out of total jail sentence of 3 years, the appellant has undergone about 3 months and he is facing the *lis* since 20 years I am of the considered opinion that the ends of justice would be met if, while upholding the conviction imposed upon the appellant, the jail

sentenced awarded to him is reduced to the period already undergone by him and the fine imposed upon him is enhanced to Rs. 10,000/-. Ordered accordingly. The enhanced amount of fine shall be payable within two months from the date of receipt of a copy of this order. In default of payment, the appellant shall be liable to undergo RI for 2 months months. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.

7. Consequently, the revision is partly allowed to the extent indicated above.
8. It is reported that the appellant/accused is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.
9. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge