

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 2191 of 2000**

Arjun Mahar S/o Teema Mahar, aged about 29 years R/o Nehru Ward,
Bhatapara, Police Station- Bhatapara, Distt. Raipur (M.P.). (Now Chhattisgarh).

-- Appellant

Versus

State of M.P. (Now Chhattisgarh).

---- Respondent

For Appellant	:	Mrs. Savita Tiwari, Advocate
For Respondent	:	Mr. U.K.S. Chandel, PL

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

30/07/2018

1. This appeal has been preferred against the judgment dated 24/04/2000 passed by the IInd Additional Sessions Judge, Baloda-Bazaar in S.T. No. 466/1995, convicting the appellant under Sections 363 and 366/34 of the IPC and sentenced him to undergo RI for 7 years with fine of Rs. 500/-, RI for 7 years with fine of Rs. 500/-, respectively with default stipulations.
2. As per prosecution story, father of the prosecutrix, Dibraj was residing with his family at Bhatapara. On 04/02/1990 at about 10:30 pm, his minor daughter (prosecutrix) (PW2) left the house saying that she is going to the house of one- Daaji Banjari. Thereafter, she went to the house of Ratanmala. At about 11:30 pm, she went to the house of appellant- Arjun. After some time, when Dibraj went to the house of Arjun to took her daughter, he found that the house was locked. It was

alleged that the appellant took away the prosecutrix with him on the pretext to make her wife. On the basis of the report made by the complainant- Dibraj, offence under Section 363 was registered. On the next day, the appellant and co-accused- Sukhram left the prosecutrix near the temple. Statement of the prosecutrix as well as other witnesses under Section 161 Cr.P.C have been recorded. After investigation, a charge-sheet under Section 363 and 366/34 of the IPC was submitted. Charges were framed.

3. To prove the guilt of the appellant, the prosecution has examined as many as 6 witnesses. No defence witness has been examined. Statement of the accused/appellant were recorded under Section 313 Cr.P.C, wherein, he denied all the charges framed against him, pleaded innocence and false implication in the matter.
4. After trial, the trial Court has convicted the appellant and co-accused as mentioned in the first paragraph of this judgment. Hence this appeal.
5. Appellant- Sukhram filed a separate appeal bearing Criminal Appeal No. 1788/2000 which was later on dismissed as withdrawn vide order dated 30/07/2018 as he had already undergone the entire jail sentence imposed upon him by the trial Court.
6. 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. It is further submitted that out of total jail sentence of 7 years, the appellant has undergone about 1 year 10 months in

custody. There is no criminal antecedents against him. The matter is of the year 1990 and the appellant is facing this *lis* since 28 years, therefore, he prays that the jail sentence awarded to the appellant may be reduced to the period already undergone by him.

7. 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.
8. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
9. Considering the above facts and circumstances, particularly considering that out of total jail sentence of 7 years, the appellant has undergone about 1 year 10 months and he is facing this *lis* since 1990, 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.
10. Consequently, the revision is partly allowed. The conviction imposed upon the appellant is affirmed and the jail sentence awarded to him is reduced to the period already undergone by him. The fine sentence is also affirmed.
11. 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.

12. 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

Rahul