

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 415 of 2008

- Nirbhay Das S/o Shri Kolu Das Mahant, caste Panika, r/o Village Dhogdarha, P.S.-Kartala, distt.-Korba (CG)

---- Applicant

Versus

- State Of Chhattisgarh , Through the Police Station Kartala, district Korba (CG)

---- Respondent

For Applicant	: Shri Ritesh Verma, Advocate
For Respondent/State	: Shri Gary Mukhopadhyay, GA

Hon'ble Smt. Justice Rajani Dubey

Order On Board

07/12/2018

The present revision arises out of the impugned order and judgment dated 19.06.2008 passed by the Sessions Judge, Korba in Cr. Appeal No. 09/2008 whereby the learned appellate Court below has confirmed the conviction and sentence of the accused/applicants as awarded by the learned Judicial Magistrate first Class, Korba vide its judgment dated 27.03.2008 in Cr. Case No. 327/2007 for the offence under Section 354 IPC and sentenced him to undergo RI for three months and to pay fine of Rs. 500/- plus default stipulation.

2. Brief facts of the case are that on 25.05.01, at about 10.30 a.m. prosecutrix was in her home, accused who is a tailor by profession came and asked for measurement of her blouse for stitching. Further case is that the victim gave him her old blouse, at that time, accused caught her hand and pressed her breast and tried to outrage her

modesty. The victim opposed to his act by abusing him. In the noon when her mother who is a teacher in the Angan Badi, came home she narrated the incident to her. On the next day when father of the complainant came home she narrated the same and thereafter FIR was lodged on 27.05.2001. After completion of investigation, charges were framed against the accused/applicant under Section 354 IPC.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 5 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded his innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment and order dated 27.03.08, learned Magistrate has convicted the accused/applicant for the offence under Section 354 IPC and has sentenced to undergo RI for three months with fine of Rs. 500/- , with default stipulation. This order was appealed by the applicant and in the appeal, learned appellate Court has confirmed the conviction and sentence of the applicant. Hence, the present revision.

5. Heard counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the applicant submits that he is not pressing the revision as far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 2001 and thereby more than 18 years have rolled by since then, he is

aged more than 57 years, the applicant has already remained in jail for about 12 days, no useful purpose would be served in again sending him to jail, therefore it would be in the interest of justice if the sentence imposed on him is reduced to the period already undergone by him. To this, counsel for the State has no serious objection.

7. In view of above, the fact that the incident had taken place in the year 2001 and further that the applicant has already remained in jail for about 12 days, the revision is partly allowed. Conviction part of the impugned judgment is maintained. Applicant is reported to have remained in jail for a period of 12 days, his sentence is reduced to the period already undergone by him.

8. Revision thus partly succeeds.

Sd/-

(Rajani Dubey)
Judge