

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 258 of 2004**

Banshi Lal S/o Jhaduram Ganda, aged about 40 years, Occupation- Kotwar,
R/o Village- Bharwamuda, P.S. Bagbahra, District- Mahasamund (C.G.).

--- Applicant**Versus**

1. The State of Chhattisgarh, through the District Magistrate, Mahasamund (C.G.).
2. Milan Yadav S/o Guharam Yadav, aged about 30 years R/o village – Bharwamuda, P.S. Bagbahra, District- Mahasamund (C.G.).

---- Respondents

For Applicant	:	Mr. Awadh Tripathi, Advocate
For Respondent No.1	:	Mr. U.K.S. Chandel, PL
For Respondent No.2	:	Mr. Vikram Dixit, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**06/10/2018**

1. This revision has been preferred under Section 397 read with Section 401 of the Code of Criminal Procedure against the judgment dated 28/04/2004 passed by the Second Additional Sessions Judge, Mahasamund (C.G.) in Criminal Appeal No. 145/2003, arising out of judgment of conviction and sentence dated 26/03/2003 passed in Criminal Complaint case No. 954/2002 by the Chief Judicial Magistrate, Mahasamund convicting the applicant under Section 497 of the Indian Penal Code and sentenced him to undergo RI for 2 years and to pay fine of Rs. 1000/- with default stipulation.
2. As per prosecution story, Ashmotin Bai was wife of respondent No.2, Milan Yadav. Their marriage was performed before 6-7 years. It is alleged that the present applicant was neighbor of the said Milan Yadav. Milan Yadav

filed a complaint before the Chief Judicial Magistrate, stating therein that the applicant had developed some illicit relation with his wife with help of one-Indu Bai. For this purpose, he used home of Indu Bai. It was further alleged that Indu Bai alleged to be guard and watching and some time she locked the present applicant and Ashmotin Bai inside the room. On 07/11/2000 at about 9:00 am, when the complainant went to oil Mill and other family members were busy in some other work at that time, Indu Bai called the applicant to her and also called Ashmotin Bai to her home, and thereafter she locked the room from outside, but some villagers saw that and they informed the other villagers. They also called the complainant. When the door was opened, the applicant and Ashmotin Bai were found inside. Both have confessed their guilt and admitted that there is some illicit relation between them. On the basis of said complaint, the learned Chief Judicial Magistrate registered offence under Sections 497 and 498/109 against the present applicant and Indu Bai. Charges were framed. After trial, the learned Chief Judicial magistrate convicted the applicant as mentioned in the first paragraph of this order, which was also affirmed by the Appellate Court. Hence, this revision.

3. Learned counsel appearing on behalf of the applicant submits that he does not want to press this revision on merit and confines his argument to the sentence part only. He further submits that the incident is of the year 2000. The applicant is facing the *lis* since 18 years and he has no known criminal antecedent. The applicant has undergone about some days during pendency of this revision, therefore, the jail sentence awarded to the applicant may be reduced to the period already undergone by him.
4. Learned Counsel appearing for the respondents oppose the prayer made

by the counsel for the applicant and supported the impugned judgment.

5. I have heard Learned Counsel appearing for the parties and perused the material available on record.
6. Considering the above facts and circumstances of the case, particularly considering that the applicant has undergone some days during pendency of this revision, he is facing the *lis* since 18 years and he has no known criminal antecedent, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the applicant, the jail sentenced awarded to him is reduced to the period already undergone by him and the fine sentence imposed under Section 497 of the IPC is enhanced to Rs. 25000/-. Ordered accordingly. The enhanced amount of fine shall be payable within one month from the date of receipt of a copy of this order. In default of payment, the applicant shall be liable to undergo SI for 6 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 applicant/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