

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 988 of 2002

- Milan Kumar

----Appellant

Versus

- State Of Chhattisgarh

---- Respondent/State

For Petitioners	:	Aditya Chopra, Advocate
For Respondent/State	:	Lav Sharma, Penal Lawyer

Hon'ble Smt. Justice Rajani Dubey

Judgement

13/07/2018

1. This appeal has been preferred against the judgment dated 05/09/2002 passed in special Court Ambikapur, by Special Judge in Special Criminal Case No. 127 of 2000 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (henceforth 'the Act of 1989'), Ambikapur convicting and sentencing the accused/Appellant under Section 341, 323 and 509 of IPC and sentenced with fine of Rs. 500/-, 1000/- u/Ss. 341 & 323 and Simple imprisonment for six months with fine of Rs.1500/-
2. Brief facts of the case are that on 14/03/1998 Ku. Pawaro (PW1) and Ku. Vimla (PW2) jointly filed a written application (Ex.P1) against the accused/ Appellant at Police Station Jainagar, District Sarguja. On the basis of this application, FIR (Ex.P2) was registered against applicant/Accused under Sections 341, 323 and 506 (B) I.P.C and Section 3 (1) (3) special Atrocities Act. The Trial court framed charges against the accused/appellant under Sections 341, 323 and 506 (B)

I.P.C. 3 (1) (3) Atrocities Act.

3. To hold the accused/appellant guilty, the prosecution has examined as many as 7 witness. Statement of the accused/Appellant was also recoded under Section 313 of the Code of Criminal Procedure in which he denied the guilt. No defense witness has been examined.
4. After trial, the trial Court convicted and sentenced the Appellant as mentioned in the first paragraph of this judgment. Hence, this appeal.
5. Learned counsel appearing for the appellant submits that he does not want to press this appeal on merits and confine his argument to the sentence part only. He further submits that the appellant is facing the *lis* since 2000, i.e., for the last 18 years, he has no Criminal antecedent, has already undergone jail sentence of 27 days, therefore, his sentence may be reduced to the period already undergone by him.
6. On the contrary, Learned State Counsel opposed the prayer made by Learned Counsel for the Appellant and supported the impugned judgment.
7. Considering the facts and circumstances of the case, I am of the opinion that ends of justice would be served if the appellant is sentenced to the period already undergone by him. As the incident had taken place in the year 1998 i.e 20 years back and the appellant has already remained in jail for about 27 days, the appeal is partly allowed. Conviction part of the impugned judgment is maintained.
8. Consequently, the appeal is allowed in part to the extent indicated above.
9. Record of the Court below be sent back along with a copy of this judgment forthwith and necessary compliance.

Sd/-

(Rajani Dubey)
Judge