

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 280 of 2007

Devraj @ Baba, S/o Shri Kunjal Singh, aged about – 42 years, R/o Baharmuda, P.S. Pipariya R/o Kawardha, Tah – Kawardha, Distt. Kabirdham, C.G.

---- Applicant

Versus

State of Chhattisgarh, Through District Magistrate, Kawardha, District – Kabirdham (CG)

---- Respondent

For Applicant	: Shri Y.C. Sharma, Advocate
For Respondent/State	: Shri Gary Mukhopadhyay, G.A.

Hon'ble Smt. Justice Rajani Dubey

Order On Board

07/12/2018

The present revision arises out of the impugned order and judgment dated 14.05.2007 passed by the Sessions Judge, Kabirdham in Cr. Appeal No. 13/2007 whereby the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Kabirdham, vide its judgment dated 26.02.2007 in Cr. Case No.1275/2004 for the offence under Sections 457 and 354 of the IPC and sentenced to undergo RI for one year with fine of Rs. 500/- and RI for six months and with fine of Rs. 500/-, plus default stipulation respectively.

2. Brief facts of the case are that on the date of incident i.e. 13.11.2004 at about 9 p.m. when the complainant (PW-1) was all alone in her house, the applicant came there, forcibly entered the house of

complainant and said that he would outrage her modesty because she had deposed in the case of one Sunita. Upon this, the complainant made hue & cry and during this the applicant caught hold of her hands, threatened her for dire consequences. The complainant somehow managed to get freed from the clutches of the complainant and ran away to the house of Dhannu where she narrated the entire incident. Thereafter, the Sarpanch, Kotwar and Patel of the village were informed about this incident. During this period, the applicant ran away from the spot. The incident was reported to the Police Station Pipariya. Investigation was done and the charge was framed against the accused/applicant under Sections 457 and 354 of the IPC.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 6 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 and examined one witness in defence to substantiate its case.

4. After hearing the parties, vide impugned judgment and order dated 26.02.2007, learned Magistrate has convicted the accused/applicant for the offence under Section 457 and 354 of the IPC. 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 learned 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 on merit and would confine his argument to the sentence part thereof only. According to him, the incident took place in the year 2004 and thereby more

than 14 years have rolled on since then. The applicant has already remained in jail for about 2 ½ months, no useful purpose would be served in again sending him in jail as he is 60 years old aged man, therefore, it would be in the interest of justice, if the sentence imposed on him may be reduced to the period already undergone by the applicant.

7. State counsel has no objection to this preposition.

8. Having gone through the material available on record and the fact that the incident had taken place in the year 2004, the applicant has already remained in jail for about 2 ½ months and no useful purpose would be served in again sending him to jail, 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 2 ½ months, his sentence is reduced to the period already undergone by him. The applicant is reported to be on bail. His bail bond shall be discharged.

9. Revision thus partly allowed.

Sd/-
(Rajani Dubey)
Judge