

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 21-1-2019****Pronounced on 22-1-2019****Criminal Appeal No. 720 of 2002**

(Arising out of judgment and order dated 26.06.2002 of the Special Judge and Additional Sessions Judge, Durg in Special Case No. 138/2001)

- Pradduman Ban Goswami, S/o Mangal Ban Goswami, aged about 24 years, occupation – farmer, R/o Village Tarrighat, Thana – Patan, District – Durg (C.G.)

---- Appellant**Versus**

- State Of Chhattisgarh

---Respondent

For appellant : Mr. Vivek Sharma, Adv.

For respondent/State : Mr. I. Lakra, Dy. Govt. Adv.

Hon'ble Shri Sharad Kumar Gupta, Judge**C.A.V. JUDGMENT**

1. In this criminal appeal the challenge is levied to the judgment of conviction and order of sentence dated 26-6-2002 passed by Special Judge and Additional Sessions Judge, Durg (C.G.) in Special Case No. 138/2001 whereby and whereunder he convicted and sentenced the appellant as under :-

Offence u/S.	RI for	Fine Rs.	In default of payment of fine
354 IPC	6 months	1,000/-	SI for 3 months

2. In brief the prosecution story is that at the time of alleged incident prosecutrix was about 25 years old. She was resident of village Tarrighat. She is a member of scheduled caste. Applicant is neither member of scheduled caste nor scheduled tribe. On 01.08.2001 about 14:00 hrs she was going for nourishing her

child to her house. Near his filed, appellant caught hold her hand and pressed her breast. She narrated the incident to her family members. A meeting of the society was held in the evening. On 02.08.2001, she lodged an FIR in police station Patan. After completion of investigation, a charge sheet was filed against the appellant. The trial Court framed the charges against him under Section 354 of the Indian Penal Code (in brevity 'IPC') and Section 3(i)(xi) Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (in brevity "SC/ST Act"). After completion of trial, trial Court convicted and sentenced him as aforesaid, however, he was acquitted of the charge punishable u/s 3(i)(xi) SC/ST Act.

3. Being aggrieved, appellant preferred this Criminal Appeal.
4. Shri Vivek Sharma, counsel for the appellant at the outset urged that he is not challenging the conviction of the appellant rather he is challenging only the aforesaid period of sentence RI for 6 months for the offence punishable u/s 354 IPC. He further submitted that appellant has already undergone about 12 days thus the period of RI 6 months may be reduced to the period already undergone.
5. Counsel for the State argued that aforesaid RI is just and proper and does not call for any interference by this Court.
6. At the time of the incident no minimum imprisonment was provided for the offence punishable u/s 354 IPC. The appellant has remained in jail for 12 days. About 17 years have passed after the incident. At the time of incident, appellant was 24 years old, now he is aged about 41 years. Now, he is in main stream of

society. Sending him to jail would disturb his as well as his family members' life. Hence, no useful purpose would be served if he is sent to jail after 17 years of the incident. Looking to these circumstances and observations made by Hon'ble Supreme Court in the matter of **Manjappa v. State of Karnataka [(2007) 6 SCC 231]** this Court is of the opinion that cause of justice would be sub-served if RI for 6 months is reduced to the period already undergone by him and fine is suitably enhanced.

7. Consequently the appeal is partly allowed. The sentence for the offence punishable u/s 354 IPC, RI for 6 months is reduced to the period already undergone by him and fine of Rs. 1000/- is enhanced to Rs. 15,000/- (Rs. Fifteen Thousand only), in default of payment of fine to further undergo SI for 4 months. The fine amount if already deposited be adjusted in fine sentence imposed by this order. Out of the fine amount, Rs. 15,000/- if deposited, Rs. 10,000/- (Rs. Ten Thousand only) be given to the prosecutrix as compensation after the expiration of prescribed period of further legal remedy available to the parties.
8. The appellant is granted two months' time from the date of this judgment for depositing the fine amount.
9. The appellant is reported to be on bail. His bail and bond stands cancelled subject to the provision of 437-A of the Cr.P.C.

Sd/-

(Sharad Kumar Gupta)
Judge