

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRA No. 475/2001**

(Arising out of judgment of conviction and order of sentence dated 18-4-2001 passed by Special Judge, Rajnandgaon (CG) constituted under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 in Special Case No. 136/2000)

Ashwani Kumar S/o. Sohan Marar, aged 20 years, occupation Agriculturist, R/o. Village Murwahi, P.S. Chilphi, District Kawardha (CG)

---Appellant**VERSUS**

State of Chhattisgarh, through S.H.O. P.S. Chilphi, Distt. Kawardha (CG)

---Respondent

For appellants	: Mr. Sanjay Patel, Adv.
For respondent/State	: Mr. S.R.J. Jaiswal, Panel Lawyer.

Hon'ble Shri Sharad Kumar Gupta, Judge
JUDGMENT ON BOARD

11-3-2019

1. In this criminal appeal the challenge is levied to the judgment of conviction and order of sentence dated 18-4-2001 passed by Special Judge, Rajnandgaon (CG) constituted under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in brevity SCST Act), in Special Case No. 136/2000 whereby and whereunder he convicted and sentenced the appellant as under :-

Offence u/S.	RI for
354, IPC	2 years

2. In brief the prosecution story is that the prosecutrix is a member of scheduled caste and a resident of village Murwahi. On 6-10-2000 at about 7.00 pm at village Murwahi, the appellant had caught hold her hand and pulled her towards forest, insulted her with intention to humiliate her because she was a member of scheduled caste. After completion of investigation, a charge sheet was filed against him under Section 354 of the Indian Penal Code (in brevity 'IPC') and Section 3(1)(xi) of the SCST Act. After

completion of trial, trial Court acquitted him for the offence punishable under Section 3(1)(xi) of the SCST Act however convicted and sentenced him as aforesaid.

3. Being aggrieved, appellant has preferred this Criminal Appeal.
4. 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 of RI for 2 years for the offence punishable u/s 354, IPC. He further submitted that he has already undergone jail sentence for about 4 months and is still in jail. He may be sentenced to the period already undergone by him.
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. About 18 years have passed after the incident. At the time of incident appellant was 20 years old, now he is 38 years old. 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 18 years of the incident. Looking to these circumstances and observation 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 subserved if RI for 2 years is reduced to the period already undergone by him.
7. Consequently the appeal is partly allowed. The sentence of the appellant for the offence punishable u/s 354 IPC, RI for 2 years is reduced to the period already under gone by him.
8. The appellant is reported to be in jail. He be released forthwith if not required in any other case.

Sd/-
(Sharad Kumar Gupta)
Judge