

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 52 of 2009**

- Vijay S/o Kholbahra, aged about 23 years, by caste- Kashyap, R/o Village-Pendri, P.S. and Tahsil Janjgir, District - Janjgir-Champa, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh, Through : District Magistrate, Janjgir, District- Janjgir-Champa, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. S. B. Pandey, Adv.
For Respondent /State	:	Mr. Akhtar Hussain, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****27/09/2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 19.01.2009 passed by the learned 2nd Additional Sessions Judge (F.T.C.), Janjgir, in Cr. Appeal No. 47/2006 whereby, the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant as awarded by the learned Chief Judicial Magistrate, Janjgir, vide its judgment dated 27.11.2006 in Criminal Case No. 357/2003 for the offence punishable under Sections 498-A and 323 of IPC and sentenced him to undergo S.I. for one year with fine of Rs. 300/- and to undergo S.I. for 3 months with fine of Rs. 100/- respectively, plus default stipulation.

2. Brief facts of the case are that the marriage between the applicant and complainant Sukrita Bai was solemnized in the year 2002. After some time of marriage applicant started demanding TV and Cooler on account of dowry and when the demand was not fulfilled by the father of the complainant the applicant assaulted the complainant. Thereafter, complainant told this incident to Johit and Newa Bai and by the help of Santu informed to complainant's father regarding the incident. The matter was reported to the police station and after completion of investigation, charge-sheet was filed

and charges were framed under Section 498-A and 323 of IPC against the present applicant.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 7 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the circumstances appearing against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 27.11.2006, learned Chief Judicial Magistrate has convicted the accused/applicant for the offence punishable under Sections 498-A and 323 of IPC and sentenced him to undergo S.I. for one year with fine of Rs. 300/- and to undergo S.I. for 3 months with fine of Rs. 100/- respectively, plus default stipulation. This order was appealed by the applicant and in the appeal, learned Appellate Court has affirmed the conviction and sentence of the applicant. Hence, the present revision.

5. Learned Counsel for the applicant submits that he is not pressing the revision so far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 2003, and thereby more than 17 years have rolled by since then. The applicant has already remained in jail for more than 12 days, and no useful purpose would be served in again sending him to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to the period already undergone by him.

6. Learned counsel for the State has no objection to this proposition.

7. Heard learned counsel for the parties and perused the material on record including the impugned judgment.

8. Having gone through the material on record and the evidence of the prosecution witnesses Sukrita Bai (PW-1), Rohit Lal (PW-2), Santi Lal (PW-3), Johit Ram (PW-4), Dr. Anita Shrivastava (PW-6) and Gayatri Sharma (PW-7), which established the involvement of the accused/applicant in the crime in question and proved beyond reasonable doubt. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the applicant under Sections 498-A and 323 of IPC being so they are hereby maintained.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2003, and further that the applicant had already remained in jail for more than 12 days, therefore, his sentence is liable to be reduced to the period already undergone by him.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the applicant, he is sentenced to the period already undergone by him. The applicant is on bail. His bail bond shall stand discharged.

**Sd/-
(Rajani Dubey)
JUDGE**