

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 802 of 2008**

- Goverdhan Das, S/o. Dayaldas, Aged about 63 years
- Bharat Lal, S/o. Hulas Garhewal, Aged about 34 years,

Both R/o Village-Sonbarsa, Occu.-Agriculture, P.S. Pipariya,
Tahsil Kawardha, Distt.-Kabirdham CG

---- Applicants**Versus**

- State Of Chhattisgarh Through District Magistrate Kawardha,
Distt.-Kabirdham Kawardha CG

---- Respondent

For Applicants	: Shri Sudhir Verma, Advocate
For Respondent/State	: Shri Anurag Verma, PL

Hon'ble Smt. Justice Rajani Dubey**Order On Board****30/09/2019**

The present revision arises out of the impugned order and judgment dated 28.11.2008 passed by the Sessions Judge, Kawardha in Cr. Appeal No. 26/2008 whereby the learned appellate Court below has confirmed the conviction and sentence of the accused/applicants as awarded by the learned Judicial Magistrate first Class, Kawardha vide its judgment dated 31.03.2008 in Cr. Case No. 295/2006 for the offence under Sections 354 and 457 IPC and sentenced them to undergo RI for six months and one year respectively, with fine of Rs. 500/- on both counts, plus default stipulation.

2. Brief facts of the case are that on the date of incident i.e.

14.11.2004, at about 2.30 am, in the midnight, when the prosecutrix was sleeping in her house, the applicants entered and made an attempt to outrage her modesty. She informed about the incident to the village Kotwar and thereafter on account of illness, the written report was lodged by the complainant on 09.12.2004 against the applicants at police station Pipariya. Investigation was done and charges were framed against the accused/applicants under Sections 457 and 354 IPC.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 11 witnesses. Statements of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they denied the charges leveled against them and pleaded their innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment and order dated 27.04.2011, learned Magistrate has convicted the accused/applicants for the offence under Sections 354 and 457 IPC and has sentenced them to undergo RI for six months and one year respectively and fine of Rs. 500/- on both counts, with default stipulations. This order was appealed by the applicants and in the appeal, learned appellate Court has confirmed the conviction and sentence awarded to the applicants. Hence, the present revision.

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

6. Counsel for the applicants submits that he is not pressing the revision as far as it relates to the conviction part of the judgment and

would confine his argument to the sentence part thereof only. According to the counsel for the applicant, the incident is said to have taken place in the year 2004 and the applicants has already remained in jail for about 48 days, looking to the over-all circumstances and the fact that the accused/applicants have remained behind the bars for considerable time, it will be just and proper if the sentence awarded by the trial court for offence under Sections 354 and 457 IPC and affirmed by the appellate court is reduced to the period already undergone by them while maintaining the amount of fine in the sum of Rs. 500/-. To this, counsel for the State has no serious objection.

7. Thus, having regard to the facts and circumstances of the case, in particular, the fact that the applicant has already suffered jail sentence of 48 days, out of three months jail sentence, ends of justice would be served if the sentence imposed upon him is reduced to the period already undergone by him.

8. Thus, the impugned judgment of conviction of applicant under Sections 354 and 457 IPC passed by learned Trial Court, which has been affirmed by learned Appellate Court, is hereby affirmed. So far as the sentence part is concerned, applicant is reported to have remained in jail for a period of 48 days, his sentence is reduced to the period already undergone by him.

6. Resultantly, this revision application succeeds in part.

Sd/-
(Rajani Dubey)
Judge