

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 213 of 2006**

Lala @ Tilakchand S/o Madan Rathore, aged about 30 years, R/o Village Newari Nawapara, Police Station Gaurella, District Bilaspur (C.G.)

---- Appellant**Versus**

State of Chhattigarh through the Police Station, Gautella, District Bilaspur (C.G.).

---- Respondent

For Appellant	:	Mr. Abhishek Pandey, Advocate
For Respondent	:	Ms. Smeema Dixit, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**11/11/2019**

1. This appeal has been preferred against the judgment dated 13/03/2006 passed in Sessions Criminal Case No. 16/2004 by the Special Judge, Schedule Caste/Schedule Tribe (Prevention of Atrocities) Act, 1989, Bilaspur (C.G.), whereby the Appellant has been convicted under Sections 457 and 354 of the IPC and sentenced to undergo RI for 1 year with fine of Rs. 500/- and RI for 6 months with fine of Rs. 200/-, respectively, with default stipulations.
2. Facts of the case are that on 17/07/2003 Complainant Jeema Lakda (PW1) lodged an FIR alleging therein that on 15/07/2003 at about 11 pm, the Appellant entered into her house and tried to outrage her modesty. On the basis of said report, offence has been registered. After completion of investigation, a charge-sheet has been filed. Trial

Court framed the charges under Sections 457 & 354 of the IPC and Section 3(1) (xi) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act 1989. As many as 9 prosecution witnesses have been examined. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C has been recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has acquitted the Appellant from the charge framed under Section 3(1) (xi) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989, however, the Appellant has been convicted and sentenced as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that the Appellant has undergone about 8 days during pendency of this appeal out of total jail sentence of 1 year, he has no criminal antecedent and he is facing the */is* since 2003, therefore, he prays that the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.
5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. Considering the above facts and circumstances of the case,

particularly considering that out of total jail sentence of 1 year, the Appellant has undergone about 8 days, he is facing the *lis* since 2003 and there is no criminal antecedent against him, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the jail sentenced awarded to him is reduced to the period already undergone by him and the fine sentence imposed under Sections 457 & 354 of the IPC is enhanced to Rs. 10,000/- & 5000/-, respectively. Ordered accordingly. The enhanced amount of fine shall be payable within 2 months from the date of receipt of a copy of this order. In default of payment, the Appellant shall be liable to undergo RI for 3 months and 1 month, respectively. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.

8. Consequently, the appeal is partly allowed to the extent indicated above.
9. It is reported that the Appellant/accused is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.
10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge