

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 259 of 2009**

- Chandrashekhar Giri S/o Somprakash Giri aged about 40 years, R/o H/19, Ayurvedi College Colony, Raipur, District-Raipur, C.G., Permanent R/o Village Maroud, P.S.-Kurud, District-Raipur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh, Through : the District Magistrate, District-Raipur, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Shivendu Pandya, Adv.
For Respondent /State	:	Mr. Akhtar Hussain, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****06/09/2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 29.04.2009 passed by the learned 4th Additional Sessions Judge, Raipur, in Cr. Appeal No. 40/2009 whereby, the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Raipur, vide its judgment dated 31.01.2009 in Criminal Case No. 760/2007 for the offence punishable under Section 498-A of IPC and sentenced him to undergo R.I. for one year with fine of Rs. 5,000/-, plus default stipulation.

2. Brief facts of the case are that the marriage between complainant Prabhawati Giri and applicant Chandrashekhar Giri was taken place on 31.05.1985. After some time the applicant made illicit relationship with some other lady and brought her to the house on which wife of the applicant raised objection, then the applicant committed *marpeet* with her. The complainant was subjected to cruelty/harassment by her husband mentally as well as physically. On 11.11.2005 the applicant assaulted the complainant to get the consent for divorce in the meanwhile, the complainant left the husband house due to cruelty/harassment and came to the parental house and she

filed written report at Mahila Thana on which offence under Section 498-A, 323 and 506 of IPC was registered against the 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 31.01.2009, learned Judicial Magistrate has convicted and sentenced the accused/applicant for the offence punishable under Section 498-A of IPC and sentenced him to undergo R.I. for one year and to pay fine of Rs. 5,000/-, with 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 2005, and thereby more than 14 years have rolled by since then. The applicant has already remained in jail for more than 25 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 Prabhawati Giri (PW-1), Vijendra Jindal (PW-2), Chandrashekhar (PW-3), Smt. Poornima (PW-4), Malti Goswami (PW-5), Pramod Kumar Manjhi (PW-6) and A. Giri (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 Section 498-A of IPC being so it is hereby maintained.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2005, and further that the applicant had already remained in jail for more than 25 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**