

HIGH COURT OF CHHATTISGARH, BILASPUR

Order reserved on 26.11.2018

Order delivered on 14.01.2019

CRR No. 496 of 2004

1. Shatrughan son of Jhadu Ram Sahu, aged about 42 years, R/o Reewapar, PS Mungeli, District, Bilaspur, CG

---Applicant

Versus

1. State of Chhattisgarh through Collector, Bilaspur, C G

--- Respondent

For Applicant	-	Shri C.K. Sahu, Advocate.
For Respondent	-	Smt. M. Asha, PL

Hon'ble Smt. Vimla Singh Kapoor, J.

CAV Order

By this revision petition the applicant has assailed the judgment dated 28.09.2004 passed by Additional Sessions Judge (FTC) Mungeli, District Bilaspur modifying the judgment dated 07.02.2003 passed by JMFC Mungeli in Criminal Case No. 1065/1995.

2. Case of the prosecution in brief is that on 30.11.1995 at about 12 midnight when the complainant (PW-1) was sleeping in her house by bolting the door from inside, the accused/applicant kicked open the door, got therein and pressed her breast with an intention to outrage her modesty. It is alleged that on hearing the cries of the complainant, her son Mani Sahu (PW-2) came there with chimney in his hand and in its light the accused/applicant was

seen by them. While running away, the accused/applicant was also seen by Gopal Sahu (PW-3). On the basis of FIR Ex. P-3, offences under Sections 457 and 354 IPC were registered against the accused/applicant followed by *challan* being laid by the Court and the charge being framed by the Court below.

4. Having considered the material on record, learned trial Court convicted the accused/applicant under Sections 457 and 354 IPC and sentenced him to undergo RI for one year with fine of Rs. 1000/- u/s 457 and RI for six months with fine of Rs. 500/- u/s 354 IPC. However, in appeal, the conviction has been maintained but the jail sentence has been reduced to RI for six months from that of one year u/s 457 and RI for three months from that of six months u/s 354 IPC. Hence this revision.

5. At the outset, counsel for the applicant submits that his submission would be only in relation to the sentence part of the judgment impugned and he does not want to press the conviction part thereof. He submits that as the incident had taken place about 23 years back; that the accused/applicant has already remained in jail for about ten days; and that by now he must be in the midst of his family liabilities, it would be in the interest of justice if the jail sentence imposed on him is reduced to the period already undergone.

6. State counsel however supports the judgment impugned.

7. Having heard counsel for the parties and considered the evidence of complainant (PW-1), her son (PW-2) and brother-in-law (PW-3), it is crystal clear that on the date of incident in the midnight, the accused/applicant gained entry in the house of the

complainant by kicking open the door and pressed her breasts. Evidence also makes it clear that when PW-2 reached the spot on hearing the cries of the complainant carrying chimney in his hand, the accused/applicant ran away from the spot and while doing so he was seen by PW-3 also. Evidence of the witnesses thus consistently establishes the involvement of the accused/applicant in the crime in question and being so the findings recorded by both the Courts below in convicting him under Sections 457 and 354 IPC are just and proper and confirmed accordingly.

8. As regards sentence, since the incident had taken place about 23 years back and the applicant has already remained inside for about ten days, this Court thinks it proper to reduce the jail sentence imposed on him to the period already undergone otherwise after such a long time his well settled life would be imperiled. It is done so.

9. Revision is thus allowed in part with affirmation of conviction and reduction of sentence to the period already undergone by the applicant.

Sd/-

(Vimla Singh Kapoor)
Judge