

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 178 of 2011**

- Jaggu @ Jaglal Yadav S/o. Jarhi Singh Yadav, Aged About 35 Years
R/o. Village- Hati, Near Market, P.S. Chhal, District-Raigarh, C.G.

---- Applicant**Versus**

- State Of Chhattisgarh, Through District Magistrate, Raigarh, C.G.

---- Respondent

For Applicant	:	Mr. Ajay Mishra, From Legal Aid.
For Respondent/State	:	Ms. Reena Singh, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****22.08.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 15.03.2011 passed by the learned Sessions Judge, Raigarh, in Cr. Appeal No. 27/2010 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, Dharamjaigarh, vide its judgment dated 19.03.2010 in Criminal Case No. 89/2008 for the offence punishable under Section 354 of IPC and sentenced him to undergo R.I. for four months with fine of Rs. 500/-, plus default stipulation.

2. Brief facts of the case are that on 14.03.2010 at about 9.00 hours the complainant (PW-1) had gone to answer the call of nature in nearby forest of village Hati's Petrol Pump. The applicant came there and caught hold her hand and press her mouth to outrage her modesty. The complainant ran away after any how setting free her hands from the applicant and reported the matter to her father. Thereafter, F.I.R. was lodged against applicant. After completion of investigation, charge sheet was filed and charges were framed against accused/applicant under Sections 354 and 323 of IPC.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 9 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 19.03.2010, learned Judicial Magistrate has acquitted the accused from charge under Section 323 and convicted and sentenced the accused/applicant for the offence punishable under Section 354 of IPC and sentenced him to undergo R.I. for four months and to pay fine of Rs. 500/-, 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 appellant. 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 2008, and thereby more than one 11 years have rolled by since then. The applicant is aged about 50 years and he has already remained in jail for more than 15 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 Prosecutrix (PW-1), Moh. Rafik Singh (PW-2), Raja (PW-3), Dr. S. S. Bhagat (PW-4), Ashiq Khan (PW-5), Salma Begam (PW-6), Sanjay Yadav (PW-8), and U. K. Raja (PW-9), established the involvement of the accused/applicant in the crime in question stands 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 354 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 2008, and further that the applicant had already remained in jail for more than 15 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 will stand discharged.

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