

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 212 of 2008

- Tuleshwar And Anr. S/o Ramnandan Ram, Occupation Service Shikshakarmi
- Gajendra Prasad S/o Ramnandan Ram, Occupation Service Shikshakarmi

Both are R/o Village-Brijnagar, Police Station Jainagar, Tahsil Surajpur, Distt. Surguja C.G.

---- Appellants

Versus

- State Of Chhattisgarh Through The District Public Prosecutor Officer, Surguja C.G.

---- Respondent

For Appellant	: Shri Abhishek Pandey, Advocate
For Respondent/State	: Shri K.K.Singh GA

Hon'ble Smt. Justice Rajani Dubey

Order On Board

27/02/2019

The present revision arises out of the impugned order and judgment dated 18.03.2008 passed by the First Additional Sessions Judge, Surajpur district Surguja in Cr. Appeal No. 56/2007 whereby the learned appellate Court below has confirmed the conviction and sentence of the accused/applicants as awarded by the learned Additional Chief Judicial Magistrate, Surajpur vide its judgment dated 05.04.2007 in Cr. Case No. 272/2002 for the offence under Section 354 IPC and sentenced each of them to undergo RI for one year.

2. Brief facts of the case are that on 04.05.02, at about 10.00

p.m. when the prosecutrix after selling tendu leaves, had come home and had gone to the well to wash her hands and legs, applicants, who were hiding themselves near the well, came there and tried to outrage her modesty by using criminal force on her body. Police registered Crime No. 70/2002 against the applicants under Section 354 IPC. After completion of investigation, charge sheet was filed and charges were framed against the applicants under Section 354 IPC.

3. So as to prove the guilt of the accused/applicants, the prosecution has examined 6 witnesses. Statement 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 05.04.07, learned Magistrate has convicted the accused/applicants for the offence under Section 354 IPC and has sentenced them to undergo RI for one year. This order was appealed by the applicants and in the appeal, learned appellate Court has confirmed the conviction and sentence of 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 him, the incident is said to have taken place in the year

2002 and thereby more than 17 years have rolled by since then, they are aged about 50 & 54 years, the applicants have already remained in jail for about 9 days, no useful purpose would be served in again sending them to jail, therefore it would be in the interest of justice if the sentence imposed on them is reduced to the period already undergone by them. To this, counsel for the State has no serious objection.

7. In view of above, the fact that the incident had taken place in the year 2002 and further that the applicants have already remained in jail for about 9 days, the revision is partly allowed. Conviction part of the impugned judgment is maintained. Applicants are reported to have remained in jail for a period of 9 days, their sentence is reduced to the period already undergone by them.

8. Revision thus partly succeeds.

Sd/-

(Rajani Dubey)
Judge