

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 273 of 2011

- Shahid Khan, S/o. Kasim Khan, aged about 19 years, R/o. Shiv Talkies Chowk, Panchsheel Bodh Vihar Ke Pichhe, Tikarapara, P.S. City Kotwali, Bilaspur C.G.

---- Applicant

Versus

- State Of Chhattisgarh, District Magistrate, Bilaspur, C.G.

---- Respondent

For Applicant	:	Ms. Shivali Dubey, Adv.
For Respondent/State	:	Shri Rahul Mishra, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey

Order On Board

19.07.2019

1. The present revision arises out of the judgment of conviction and order of sentence dated 20.04.2011 passed by the Learned Session Judge, Bilaspur, in Cr. Appeal No. 125/2010, whereby the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant awarded by the learned Chief Judicial Magistrate, Bilaspur, vide its judgment dated 27.10.2010 in Cr. Case No. 1482/2009 for the offence under Section 354 of the IPC, and sentenced him to undergo RI for six months along with fine of Rs. 500/- with default stipulation.

2. Brief facts of the case are that on 05.07.2009, at about 09.00 p.m., when prosecutrix along with her younger sister returned back to home after answering the nature call, on the way, the accused/applicant alleged to stop her and asked that why she was not

talking to him as he loves her. With intention to outrage modesty of the prosecutrix, the accused/applicant pulled her *chunri* and caught hold of her hands and started dragging her. When prosecutrix opposed it, she was beaten by the accused/applicant. After returning back to home prosecutrix narrated the whole incident to her parents. Thereafter, the FIR was lodged by the prosecutrix against the applicant in police station Kotwali, Bilaspur. After filing of charge-sheet, charges were framed against the accused/applicant under Section 354 of the IPC.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 05 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled 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 27.10.2010, learned Chief Judicial Magistrate has convicted the applicant under Section 354 of the IPC, and sentenced him to undergo RI for six months along with fine of Rs.500/-, plus 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. Heard counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the applicant submits that he is not pressing this 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

2009 and thereby more than 10 years have rolled by since then. He is aged about 30 years. The applicant has already remained in jail for about more than 15 days and no useful purpose would be served in again sending him to jail. Therefore, it would be in the interest of justice if the sentence imposed on him may be reduced to the period already undergone by him.

7. Learned State counsel has no objection to this preposition.

8. Having gone through the material on record and the evidence of the witnesses including Prosecutrix (PW-1), Amardas(PW-2), Narendra Rangari(PW-3), B.L. Mahobe(PW-4) and Shyodor Tirki (PW-5), establishes the involvement of the accused/applicant in the crime in question, 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 the IPC, being so are hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 2009 and the applicant has already remained in jail for about more than 15 days and further considering the fact that the applicant has already faced a prolonged trial and suffered trauma of uncertainty arising out of his conviction by the Sessions Court, the revision is partly allowed and his sentence is liable to be reduced to the period already undergone by him. Conviction part of the impugned judgment is maintained.

10. The applicant is on bail. His bail bond shall stand discharged.

11. Revision thus partly succeeds.

Sd/-
(Rajani Dubey)
JUDGE