

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 640 of 2010**

- Pramod Pandey, S/o Late Shri S.P. Pandey, aged about 60 years, presently resident of Brahman Para, Police Station Ambikapur, district Surguja (C.G.)

---- Applicant**Versus**

- State of Chhattisgarh, through the District Magistrate, Dhamtari, District- Dhamtari (C.G.)

---- Respondent

For Appellant	:	Shri Navin Shukla, Advocate
For Respondent/State	:	Shri Avinash Kumar Mishra, PL

Hon'ble Smt. Justice Rajani Dubey**Order On Board****26.04.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 26/11/2010 passed by the Additional Sessions Judge, (FTC) Dhamtari, in Cr. Appeal No. 36/2010 whereby, the learned appellate Court below has confirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Kurud, District Kurud, vide its judgment dated 28/05/2010 in Criminal Case No. 1105/2005 for the offence under Section 509 of IPC and sentenced him to undergo S.I. for six months with fine of Rs. 3,000/- plus default stipulation.

2. The prosecution story, in brief, is that on 01.04.2003 at about 12.00-1.00 PM, the Prosecutrix along with her husband Fulsing, villager Chetu Sahu of village Gatapar and village Kotwar, had gone to Police Station Kurud to lodge report of Section 354 IPC. At the relevant time, applicant was Thana Incharge of Kurud. Upon being asked as to why they have come in police station, the Prosecutrix informed him (the applicant) that on 31.03.2003, vikram Dhruv tried to outrage her

modesty, thereafter, the applicant asked the husband of the prosecutrix and other persons who had come along with the prosecutrix to go outside of his room and started inquiring the prosecutrix as to how Vikram Dhruv tried to outrage her modesty. Further, the Prosecutrix was compelled by the applicant to disclose the incident by doing practical as to how and in which manner did Vikram Dhruv touch her body. The applicant also told that you (the prosecutrix) are smart and intelligent, and if she acts according to him, he would punish Vikram Dhruv. She was compelled to do sexual intercourse with the applicant. Further case of the prosecution is that when the Prosecutrix came out of his room, she narrated the incident to her husband and, thereafter, on 06.04.2003 a written report was made before the Superintendent of Police, Dhamtari, and a criminal case was also filed in the Court on 05.04.2003.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 04 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charge 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 28/05/2010, learned Judicial Magistrate First Class, has acquitted the accused/applicant under Section 354 IPC and convicted the applicant for the offence under section 509 of IPC and sentenced him to undergo SI for six months and to pay fine of Rs. 3,000/- plus default stipulation. This order was appealed by the applicant and in the appeal, learned Appellate Court has confirmed the conviction and sentence of the appellant. Hence, the present revision.

5. Heard learned 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 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

2003, and thereby more than 15 years have rolled by since then. He is aged about more than 70 years. The applicant has already remained in jail for one month, 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.

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

8. Having gone through the material on record and the evidence of the witnesses Prosecutrix (PW-1), Fulsingh Sahu (PW-2), Chaitu (PW-3) and D.R. Sahu (PW-4), 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 appellant under Section 509 of IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2003, and further that the appellant had already remained in jail for one month, 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 appellant, he is sentenced to the period already undergone by him.

Sd/-
(Rajani Dubey)
JUDGE