

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 543 of 2013**

- Ramkumar Ratre S/o Rambharosh Ratre aged about 44 years, R/o Village Akaltari, P.S. Ratanpur, Civil and Revenue District-Bilaspur, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh, Through : P.S. Ratanpur, Civil and Revenue District-Bilaspur, Chhattisgarh.

---- Respondent

For Applicant	: Ms. Sareena Khan, From Legal Aid
For Respondent/State	: Mr. B. L. Sahu, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****12/09/2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 21.08.2013 passed by the learned Additional Sessions Judge (FTC), Bilaspur, in Cr. Appeal No. 196/2013 whereby, the learned appellate Court below has partly allowed the appeal and modified the sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Bilaspur, vide its judgment dated 28.06.2013 in Criminal Case No. 1733/2007 while acquitting of the charge under Section 323 of IPC and convicted for the offence punishable under Section 354 of IPC and sentenced him to undergo R.I. for 6 months and fine of Rs. 500/-, plus default stipulation.

2. The allegation against the present applicant is that on 16.08.2006 at about 8:30 pm., he caught hold the hand of the complainant and tried to outrage her modesty thereafter, FIR

was lodged. After completion of investigation, charge sheet was filed and charge was 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 28.06.2013, learned Judicial Magistrate has convicted and sentenced the accused/applicant for the offence punishable under Section 354 and 323 of IPC and sentenced him to undergo R.I. for 2 year and fine of Rs. 500/-, and R.I. for 6 months and fine of Rs. 500/- respectively, plus default stipulation. This order was appealed by the applicant and in the appeal, learned Appellate Court has acquitted the applicant of the charge under Section 323 of IPC and modified the sentence of the applicant for the offence punishable under Section 354 of IPC and sentenced him to undergo R.I. for 6 months and to pay fine of Rs. 500/-, plus default stipulation. 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 2006, and thereby more than 13 years have rolled by since then. The age of the applicant is near about 58 years. The applicant has already remained in jail for near about 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 proposition.

8. Having gone through the material on record and the evidence of the witnesses complainant (PW-1), Rajesh Kumar Ratre (PW-2), Rajkumar Dhiwar (PW-3), Ku. Arti (PW-4), Dr. Avinash Singh (PW-7) and Hemant Aditya (PW-8), 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 appellant Court the Court below as regards conviction it is hereby maintained.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2006, and further that the applicant had already remained in jail for near about 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 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