

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 14-2-2019****Delivered On 15-2-2019****CRIMINAL APPEAL No. 16 OF 2000**

(Arising out of judgment of conviction and order of sentence dated 18-10-2000 passed by 1st Additional Sessions Judge, Raigarh in ST No. 95/1998)

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1. Heeradhan Uraon son of Late Bandhanram Uraon aged about 30 years, R/o. Takro Dandpara, Jamarghidi, P.S. Dharamjaigarh (CG)
2. Dhaniram Uraon, son of Shaniram Uraon, aged 41 years, R/o. Laxmi Nagar, P.S. Dharamjaigarh, Distt. Raigarh (CG)

----Appellants**-Versus-**

State of Chhattisgarh through PS Dharamjaigarh (CG)

----Respondent

For appellants : Shri Suresh Tandan, Advocate
For State : Shri Wasim Miyan, Panel Lawyer.

Hon'ble Shri Sharad Kumar Gupta, Judge**ORAL JUDGMENT**

1. In this criminal appeal the challenge levied is to the judgment of conviction and order of sentence dated 18-10-2000 passed by 1st Additional Sessions Judge, Raigarh in ST No. 95/1998 whereby and whereunder he convicted and sentenced the appellants as under :-

Offence u/S.	RI for	Fine sentence	In default of payment of fine
354, IPC	Six months	Rs. 500/-	RI for 1 ½ months
506(2), IPC	Six months	Rs. 500/-	RI for 1 ½ months

Both the jail sentences have been directed to run concurrently.

2. In brief, case of the prosecution is that on 28-4-1998 about 16 hour at village Jamargidi appellants had caught hold the prosecutrix who was 21 years old. Appellant No. 1 Heeradhan had a tomahawk and

appellant No. 2 Dhaniram had an axe. Appellant No. 1 Heeradhan committed forcible sexual intercourse with her. Both the appellants had given threats to kill her. On very day prosecutrix lodged an FIR in police station Dharamjaigarh. After completion of the investigation a charge sheet was filed against them. The Trial Court framed the charges against them under Sections 376(2)(g) and 506-II of the Indian Penal Code (in brevity 'IPC'). After conclusion of the trial, the trial Court convicted and sentenced them as aforesaid however they have been acquitted from the offence punishable under Section 376(2)(g), IPC.

3. Counsel for the appellants at the outset urged that he is not challenging the conviction of the appellants rather he is challenging only the aforesaid period of sentences of RI for 6 months on each count. He further submitted that the appellants have already undergone jail sentences from 1-5-1998 to 31-8-1998 i.e. about 4 months, thus the period of RI for six months on each count may be reduced to the period already undergone by them.

4. The State Counsel argued that sentences awarded to the appellants are just and proper and do not call for any interference.

5. At the time of the incident, no minimum imprisonment was provided for the offence punishable under Section 354, IPC. The appellants have remained in jail for about 4 months. About 20 years have passed after the incident. At the time of incident, appellant No. 1 Heeradhan was aged 30 years, now he is 50 years of age. The appellant No. 2 Dhaniram was aged about 41 years, now he is 61 years old. Now they are in mainstream of society. Sending them jail would disturb their as well as their family members' life. Hence, no useful purpose would be served if they are sent to jail after 20 years of the

incident. Looking to these circumstances and observation made by Hon'ble Supreme Court in the matter of **Manjappa -v- State of Karnataka** [(2007) 6 SCC 231] this Court is of the opinion that cause of justice would be sub-served, if RI of six months on each count is reduced to the sentence for the period already undergone by them with fine sentences as awarded by the trial Court.

6. Consequently, the appeal is partly allowed. The sentences of appellants of RI for six months on each count are reduced to the period already undergone by them and the fine sentences and default clauses awarded by the trial Court are affirmed.

7. The appellants are reported to be on bail. They need not surrender. Their bail and bonds shall continue for a further period of six months as per requirement of Section 437-A, Cr.P.C.

Sd/-
(Sharad Kumar Gupta)
Judge