

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 23-1-2019****Delivered On 28-1-2019****CRIMINAL APPEAL No. 1163 OF 2002**

(Arising out of judgment of conviction and order of sentence dated 30-10-2002 passed by 2nd Additional Sessions Judge, Link Road, Ramanujganj, Sarguja (CG) in ST No. 399/2001)

...

Jailal Lakda son of Kalys, aged about 30 years, occupation Agriculturist, R/o. Village Sarangpur, PS. Ramanujganj, Distt. Sarguja, CG

----Appellant**-Versus-**

State of Chhattisgarh through Station House Officer, PS Ramanujganj Distt. Sarguja (CG)

----Respondent

For appellant : Shri Rahil Kochar, Advocate
For State : Sushri Sangeeta Mishra, Govt. Adv.

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 30-10-2002 passed by 2nd Additional Sessions Judge, Link Court, Ramanujganj, Sarguja (CG) in ST No. 399/2001 whereby and whereunder he convicted and sentenced him as under :-

Offence u/S.	RI for	Fine sentence	In default of payment of fine
341, IPC	One month	Rs. 500/-	Imprisonment for 7 days
354, IPC	RI for 2 years	Rs. 5,000	RI for six months

Both the jail sentences have been directed to run concurrently.

2. Admitted facts of the case are that at the time of alleged incident prosecutrix had gone to the house of appellant to get the due wages on

account of labour work done by her husband. She had lodged report in police station. Later the matter was compromised in Panchayat.

3. In brief, case of the prosecution is that prosecutrix was 19 years' old at the time of alleged incident, she was a resident of village Sarangpur. On 27-7-1999 at about 12 pm, when she was cooking meals in the house of appellant, he took her inside the room, locked it and committed forcible sexual intercourse with her. Her husband reached there and saw her in petty coat blouse. She lodged an FIR in police station Ramanujganj on 30-7-1999. After completion of the investigation a charge sheet was filed against him. The Trial Court framed the charges against him under Sections 341 and 376 of the Indian Penal Code (in brevity 'IPC'). After conclusion of the trial, the trial Court convicted convicted and sentenced him as aforesaid.

4. Counsel for the appellant at the outset urged that he is not challenging the conviction of the appellant rather he is challenging only the aforesaid period of sentences of RI for 1 month and 2 years respectively. He further submitted that the appellant has already undergone jail sentences from 5-11-2001 to 24-10-2002 thus the period of RI for 1 month and 2 years may be reduced to the period already undergone by him.

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

6. At the time of the incident, no minimum imprisonment was provided for the offence punishable under Section 354, IPC. The appellant has remained in jail for about a year. About 19 years have passed after the incident. At the time of incident, appellant was aged 32 years, now he is 51 years of age. Now he is in mainstream of society.

Sending him jail would disturb his as well as his family members' life. Hence, no useful purpose would be served if he is sent to jail after 19 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 1 month and 2 years are reduced to the sentence for the period already undergone by him with fine sentences as awarded by the trial Court.

7. Consequently, the appeal is partly allowed. The sentences of appellant of RI for 1 month and 2 years under Section 341 and 354, IPC respectively are reduced to the period already undergone by him and the fine sentences and default clause awarded by the trial Court are affirmed.

8. The appellant is reported to be on bail. He need not surrender. His bail and bond shall continue for a further period of six months as per requirement of Section 437-A, Cr.P.C.

Sd/-
(Sharad Kumar Gupta)
Judge