

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1049 of 2002**

Jatiram Dhimar S/o Manglu Ram Dhimar, aged about 30 years R/o Village-Amaseoni, Police Station Pandard, Raipur (C.G.).

---- Appellant**Versus**

State of Chhattigarh Through Station Officer Police Station Pandari, Raipur (C.G.).

---- Respondent

For Appellant	:	Mr. Y.C. Sharma, Advocate
For Respondent	:	Ms. Smeema Dixit, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**21/10/2019**

1. This appeal has been preferred against the judgment dated 19/09/2002 passed in Sessions Trial No. 152/2002 by the Sessions Judge, Raipur (C.G.), whereby the Appellant has been convicted under Section 354 of the IPC and sentenced to undergo RI for 1 year and to pay fine of Rs. 2000/- with default stipulation.
2. Facts of the case are that on 04/03/2002 at about 12 O' clock, the Prosecutrix (PW1), a married lady had gone to pump house for taking bath along with her two friends. It is alleged that the Appellant came there and told the Prosecutrix that he want to do wrong work with her. Thereafter, he dragged the Prosecutrix inside the pump house and put off her lower garments. The Prosecutrix shouted and kept the Appellant away by her feet. Thereafter, the Appellant ran away from

the spot. On the same day, the matter was reported by the Prosecutrix and on that basis, offence has been registered. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charge under Section 376 read with 511 of the IPC. To prove the guilt of the Appellant, the Prosecution has examined as many as 4 witnesses. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C has been recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has acquitted the Appellant from the charge framed under Section 376 read with 511 of the IPC and convicted and sentenced him as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that the Appellant has undergone about 4 days during trial out of total jail sentence of 1 year, he has no criminal antecedent and he is facing the *lis* since 2002, therefore, he prays that the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.
5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. Considering the above facts and circumstances of the case,

particularly considering that out of total jail sentence of 1 year, the Appellant has undergone about 4 days, he is facing the *lis* since 2002 and there is no criminal antecedent against him, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the jail sentenced awarded to him is reduced to the period already undergone by him and the fine sentence imposed under Section 354 of the IPC is enhanced to Rs. 20,000/-. Ordered accordingly. The enhanced amount of fine shall be payable within 2 months from the date of receipt of a copy of this order. In default of payment, the Appellant shall be liable to undergo RI for 6 months. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.

8. The fine sentence imposed under Section 354 of the IPC shall be given as compensation to the Prosecutrix in light of Section 357 (1) of the Cr.P.C.
9. Consequently, the appeal is partly allowed to the extent indicated above.
10. It is reported that the Appellant/accused is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.
11. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge