

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 22-7-2019****Pronounced on 24-7-2019****Criminal Appeal No. 881 of 2002**

(Arising out of judgment of conviction and order of sentence dated 24-7-2002 passed by Special Judge and Additional Sessions Judge, Durg (C.G.) in Special Case No. 110/2001)

Narendra Singh son of Harbans Singh, aged about 35 years, occupation Tea Shop, R/o. Shankar Nagar, Durg (CG)

---Appellant**-versus-**

State of Chhattisgarh

---Respondent

For appellant	: Mr. Satish Gupta on behalf of Mr. Sandeep Yadav, Adv.
For respondent/State	: Mrs. M. Asha, PL.

Hon'ble Shri Sharad Kumar Gupta, Judge
C.A.V. JUDGMENT

1. In this criminal appeal the challenge is levied to the judgment of conviction and order of sentence dated 24-7-2002 passed by Special Judge and Additional Sessions Judge, Durg (C.G.) in Special Case No. 110/2001 whereby and whereunder he convicted and sentenced the appellant as under :-

Offence u/S.	RI for	Fine Rs.	In default of payment of fine
509, IPC	6 months	1,000/-	RI for 3 months
354 IPC	6 months	1,000/-	RI for 3 months

2. In brief the prosecution story is that at the time of alleged incident prosecutrix was about 17 years old. She was resident of Shankar Nagar, Durg. She is a member of scheduled caste. Appellant is neither member of scheduled caste nor scheduled tribe. On 18-6-2001 at about 3.00 pm, he entered into her house, became

naked and calling her by gesture. He caught hold her hand. She lodged a report in Mohan Nagar Police Station which was registered in '0' number. Thereafter numbered FIR was registered in Special Police Station, Durg. After completion of investigation, a charge sheet was filed against him. The trial Court framed the charges against him under Section 509 and 354 of the Indian Penal Code (in brevity 'IPC') and Section 3(i)(xi), Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act (in brevity "SC/ST Act"). After completion of trial, trial Court convicted and sentenced him as aforesaid, however, he was acquitted of the charge punishable u/s 3(i)(xi) SC/ST Act.

3. Being aggrieved, appellant preferred this Criminal Appeal.
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 RI for 6 months on each count. He further submitted that appellant has already undergone about 3 days thus the period of RI 6 months on each count may be reduced to the period already undergone.
5. Counsel for the State argued that aforesaid RI is just and proper and does not call for any interference by this Court.
6. At the time of the incident no minimum imprisonment was provided for the offences punishable u/s 509 and 354 IPC. The appellant has remained in jail for 3 days. About 18 years have passed after the incident. At the time of incident, appellant was 35 years old, now he is aged about 53 years. Now, he is in main stream of society. Sending him to 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 18 years of the incident. Looking to these circumstances and observations 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 for 6 months on each count is reduced to the period already undergone by him and fine is suitably enhanced.
7. Consequently, the appeal is partly allowed. The sentence for the offence punishable u/s 509, IPC, RI for 6 months is reduced to

the period already undergone by him and fine of Rs. 1,000/- is enhanced to Rs. 7,000/- (Rs. Seven Thousand only), in default of payment of fine to further undergo RI for 3 months. The sentence for the offence punishable u/s 354, IPC, RI for 6 months is reduced to the period already undergone by him and fine of Rs. 1,000/- is enhanced to Rs. 7,000/- (Rs. Seven Thousand only), in default of payment of fine to further undergo RI for 3 months.

8. The fine amount if already deposited be adjusted in fine sentence imposed by this order. Out of the fine amount Rs. 14,000/- if deposited, Rs. 10,000/- (Rs. Ten Thousand only) be given to the prosecutrix as compensation after the expiration of prescribed period of further legal remedy available to the parties.
9. The appellant is granted two months' time from the date of this judgment for depositing the fine amount.
10. The appellant is reported to be on bail. His bail and bond stands cancelled subject to the provision of 437-A of the Cr.P.C.

Sd/-
(Sharad Kumar Gupta)
Judge