

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1273 of 2002**

Dwarika Lal S/o Toran Lal Dewangan, Aged about 40 years, Occupation Agriculturist R/o Arkar P.S. Gurur Thasil Gurur, District Durg (C.G.).

---- Appellant**Versus**

State of Chhattigarh

---- Respondent

For Appellant	:	Mr. Praveen Dhurandhar, Advocate
For Respondent	:	Mr. Amit Verma, PL

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****29/11/2019**

1. This appeal has been preferred against the judgment dated 10/12/2002 passed in Special Case No. 82/2002 by the Special Judge and Additional Sessions Judge, District Durg (C.G.), whereby the Appellant has been convicted under Sections 354 & 452 of the IPC and sentenced to undergo RI for 6 months years with fine of Rs. 1000/- & RI for 6 months with fine of Rs. 1000/-, respectively, with default stipulations.
2. Facts of the case are that on 22/03/2002 at about 10:30 pm, the Prosecutrix (PW1) a married lady was sleeping in her house with her children. It is alleged that the Appellant knocked the door of her house. She opened the door and then the Appellant caught hold her hands and pressed her breast and molested her. On sought, other

witnesses came there. The matter was reported on 23/03/2002. Police registered the case. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges under Section 354 & 452 of the IPC and Section 3 (i)(ii) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act. As many as 6 prosecution witnesses have been examined. 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 convicted and sentenced the Appellant 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 6 days out of total jail sentence of 6 months, he has no criminal antecedent, he is facing the *lis* since 2002 and no fruitful purpose would be served to again send him in jail after 17 years 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 6 months, the Appellant has undergone about 6 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 Sections 354 & 452 of the IPC is enhanced to Rs. 10,000/- & Rs. 10,000/-, respectively. 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 2 months and 2 months, respectively. If any amount has already been deposited towards fine, the same shall be adjusted in the amount of fine imposed/enhanced today.

8. Consequently, the appeal is partly allowed to the extent indicated above.
9. 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.
10. 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