

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 286 of 2010**

- Yogeshwar @ Jugru Verma, S/o Prem Singh Verma, aged about 28 years, R/o Village- Akoli (Devri) Police Station Dharsiva, Tahsil- Dharsiva, District Raipur (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, through District Magistrate, Raipur District- Raipur (C.G.)

---- Respondent

For Applicant	:	Smt. Indira Tripathi, Advocate
For Respondent/State	:	Shri Suryakant Mishra, PL

Hon'ble Smt. Justice Rajani DubeyOrder On Board**26.04.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 23/06/2010 passed by the Sessions Judge, Raipur, in Cr. Appeal No. 13/2010 whereby, the learned appellate Court below has confirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Raipur, vide its judgment dated 28/01/2010 in Criminal Case No. 336/2009 for the offence under Sections 456 and 354 of IPC and sentenced him to undergo R.I. for three months with fine of Rs. 500/- and R.I. for three months, plus default stipulation Respectively.

2. Brief facts of the case are that in the night of 13.09.2005 at about 8:00 PM, the prosecutrix after providing meals to her father-in-law- and brother-in-law went inside her room to sleep and bolted the door. Her husband had gone for work. At about 1:30 AM, the applicant/accused entered her room and tried to outrage her modesty. When she raised alarm, accused/applicant caught hold of her mouth

and threatened for dire consequences. The prosecutrix, somehow, managed to push the applicant, thereafter, the accused/applicant ran away from the spot. Having heard the crying of the prosecutrix, her father-in-law and brother-in-law reached there, whom she narrated the incident. Thereafter, on the next day at the instance of complainant Bimla Pandey, an FIR was registered against the appellant in the police station.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 08 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charge leveled against him and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 28/01/2010, learned Judicial Magistrate, First Class, has convicted and sentenced the applicant for the offence under Sections 456 and 354 of IPC and sentenced him to undergo R.I. for three months with fine of Rs. 500/- and R.I. for three months respectively and acquitted from the offence under Section 506-B. This order was appealed by the applicant and in the appeal, learned Appellate Court has affirmed the conviction and sentence of the appellant. Hence, the present revision.

5. Heard learned counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the applicant submits that she is not pressing the revision so far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to him, the incident is said to have taken place in the year 2005, and thereby more than 13 years have rolled by since then. He is aged about 40 years. The applicant has already remained in jail for 7 days, and no useful purpose would be served in again sending him to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to the period already undergone by him.

7. Learned counsel for the State has no objection to this preposition.

8. Having gone through the material on record and the evidence of the witnesses prosecutrix (PW-1), Girija Shankar (PW-2), Dwarika Prashad Srivas (PW-3) Ashutosh Pandey(PW-5), and Suneel Pandey (PW-6) involvement of the accused/applicant in the crime in question stands proved beyond reasonable doubt. This Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the appellant under Sections 456 and 354 of IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2005, and further that the appellant had already remained in jail for 7 days, therefore, his sentence is liable to be reduced to the period already undergone by him.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the appellant, he is sentenced to the period already undergone by him. The accused/applicant is reported to be on bail. His bail bonds shall stand cancelled.

Sd/-
(Rajani Dubey)
JUDGE