

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 562 of 2011**

Hemlal S/o Late Ganeshuram Satnami, aged about 20 years R/o Village Achhola, Police Station Tumgaon, District Mahasamund (C.G.)

---- Appellant**Versus**

State of Chhattigarh through District Magistrate, Mahasamund, District Mahasamund (C.G.).

---- Respondent

For Appellant	:	Mr. Vikash Pradhan, Advocate
For Respondent	:	Mr. Amit Verma, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**01/10/2019**

1. This appeal has been preferred against the judgment dated 14/07/2011 passed in Sessions Trial No. 49/2010 by the District & Sessions judge (C.G.), whereby the Appellant has been convicted under Sections 363 & 366 of the Indian Penal Code and sentenced to undergo RI for 4 years with fine of Rs. 1000/- and RI for 4 years with fine of Rs. 1000/-, respectively, with default stipulations.
2. In this case, the age of the Prosecutrix was about 15 years at the relevant time. Puchlal (PW1) lodged a missing report of her daughter on 21/05/2010 alleging therein that her daughter had gone somewhere without telling anyone. During course of inquiry, Puchlal informed the police that her daughter has been abducted by the Appellant on the pretext of marriage. Later on, he along with his daughter reached the

police station, where the statement of the Prosecutrix was recorded. Thereafter, FIR has been registered vide Ex.P.2. The Prosecutrix was medically examined by the doctor. With regard to date of birth, the Prosecutrix, progress report has been seized vide Ex.P.4. Statement of witnesses under Section 161 of the Cr.P.C has been recorded. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges under Section 363, 366 and 376 (1) of the IPC. As many as 12 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 acquitted the Appellant from the charge framed under Section 376 (1) 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 1 year 2 months out of total jail sentence of 4 years, he has no criminal antecedent and he is facing the *lis* since 2010, 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 4 years, the Appellant has undergone about 1 year 2 months, he is facing the *lis* since 2010 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.
8. Consequently, the appeal is partly allowed. The conviction of the Appellant under Sections 363 & 366 of the IPC is upheld and he is sentenced to the period already undergone by him. The fine sentence is affirmed.
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