

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 215 of 2008

1. Harishchand, S/o Mahesh Satnami, aged about 28 years, Occupation – Labour,
2. Gopichand, S/o Mahesh Satnami, aged about 22 years, Occupation- Labour

Both are R/o Village Jhanki, P.S. Nawagarh, Distt.-Durg, C.G.

---- Applicants

Versus

- State of Chhattisgarh, Through District Magistrate, Durg, C.G. and also through Police Station – Nawagarh, District – Durg, C.G.

---- Respondent

For Applicants	:	Ms. Laxmeen Kashyap, Adv.
For Respondent/State	:	Shri I. Lakra, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey

Order On Board

22.07.2019

1. The present revision arises out of the judgment of conviction and order of sentence dated 19.03.2008 passed by the Learned Additional Session Judge(F.T.C.), Bemetara, District – Durg, in Cr. Appeal No. 17/2007, whereby the learned appellate Court below has affirmed the conviction and sentence of the accused/applicants as awarded by the learned Judicial Magistrate First Class, Bemetara, District – Durg, vide its judgment dated 14.08.2007 in Cr. Case No. 427/2005 for the offence under Section 354 of the IPC, and sentenced them to undergo RI for one year and to pay fine of Rs.1,000/- to each, with default stipulation.

2. Brief facts of the case are that on 30.03.2004, at about 7.00 p.m. at Village Jhanki, prosecutrix and her sister are working in their court yard, at that time, accused/applicants came there and tried to outrage her modesty. The FIR was lodged against the accused/applicants. After filing of charge-sheet, charges were framed against the accused/applicant under Section 354 and 506(1) of the IPC.

3. So as to prove the guilt of the accused/applicants, the prosecution has examined 05 witnesses. Statement of the accused/applicants were also recorded under Section 313 of the Cr.P.C. in which they denied the charges leveled against them and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 14.08.2007, learned Judicial Magistrate First Class has acquitted the applicants under Section 506(1) of the IPC and convicted them under Section 354 of the IPC and sentenced them to undergo RI for one year and to pay fine of Rs.1,000/- to each, plus default stipulation. This order was appealed by the applicants and in the appeal, learned appellate Court has affirmed the conviction and sentence of the applicants. Hence, the present revision.

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

6. Counsel for the applicants submits that he is not pressing this revision as 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 2004 and thereby more than 15 years have rolled by since then, they are aged about 40 years, the applicants have already remained in jail for about more than ten days and no useful purpose would be served in again sending them to jail. Therefore, it would be in the interest of justice if the sentence imposed on them may be reduced to the period already undergone by them.

7. Learned State counsel has no objection to this proposition.

8. Having gone through the material on record and the evidence of the witnesses including Prosecutrix (PW-1), Khelan Das(PW-2), Sanjeeta(PW-3), Shanti Bai(PW-4) and Dr. S.K. Sharma (PW-5), establishes the involvement of the accused/applicants in the crime in question, this Court does not see any illegality in the findings recorded by both the Courts below as regards conviction of the applicant under Section 354 of the IPC, being so they are hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 2004 and the applicant has already remained in jail for about more than ten days and further considering the fact that the applicants have already faced a prolonged trial and suffered trauma of uncertainty arising out of their conviction by the Sessions Court, the revision is partly allowed and their sentence is

liable to be reduced to the period already undergone by them.

Conviction part of the impugned judgment is maintained.

10. The applicants are on bail. Their bail bond shall stand discharged.

11. Revision thus partly succeeds.

Sd/-
(Rajani Dubey)
JUDGE