

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 472 of 2009

Dharmendra Kachhi (Mourya), S/o Moti Lal Mourya, aged about 23 years,
R/o Madhuban Road, Dayalband, PS City Kotwali, District – Bilaspur, C.G.

---- Applicant

Versus

State of Chhattisgarh, Through the Police of Police Station, City Kotwali,,
District – Bilaspur, (CG)

---- Respondent

For Applicant	: Shri Palash Tiwari, Advocate
For Respondent/State	: Shri Anant Bajpayee, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

01/07/2019

The present revision arises out of the impugned judgment of conviction and order of sentence dated 23.09.2009 passed by the 5th Additional Sessions Judge, Bilaspur in Cr. Appeal No. 55/2009, whereby the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Bilaspur, vide its judgment dated 14.07.2009 in Cr. Case No.1140/2009 for the offence under Sections 456 and 354 of the IPC and sentenced to undergo RI for one month with fine of Rs. 1,000/- and RI for six months with fine of Rs. 1,000/-, plus default stipulation respectively.

2. Brief facts of the case are that on 21.10.2007, at about 7 p.m., when the complainant was all alone in her house and cooking food, at that time the applicant entered her house with an intention to outrage

her modesty, used criminal force by inserting his hand in her blouse and insisting her to go to bed. The complainant, somehow, get freed from the clutches of the applicant and came outside the house. When her husband came back to home, she narrated entire incident, and then the FIR was lodged against the applicant usual investigation was carried out and charge-sheet was filed against the applicant. After filing of the charge-sheet charges were framed against the accused/applicant under Sections 456 and 354 of the IPC.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 3 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded his innocence and false implication in the case and examined one witness in defence to substantiate its case.

4. After hearing the parties, vide impugned judgment and order dated 14.07.2009, learned Magistrate has convicted the accused/applicant for the offence under Section 456 and 354 of the IPC. This order was appealed by the applicant, and in the appeal, learned appellate Court has confirmed the conviction and sentence of the applicant. 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 he is not pressing the revision on merit and would confine his argument to the sentence part thereof only. According to him, the incident took place in the year 2007 and thereby more than 12 years have rolled on since then. The applicant has already remained in jail for about 15 days, no useful purpose would be served in again sending him in jail as he is 40 years of age, therefore, it would be in the interest of

justice, if the sentence imposed upon him may be reduced to the period already undergone by the applicant.

7. State counsel has no objection to this preposition.

8. Having gone through the material on record and the evidence of the witnesses including Manju Maurya (PW-1) Rakesh Maurya (PW-2) and S.B. Singh Parihar (PW-3), established the involvement of the accused/applicant in the crime in question, this Court does not see any illegality in the findings recorded by both the Court below as regards conviction of the applicant under Sections 456 and 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 2007 and further that the applicant has already remained in jail for about 15 days, the revision is partly allowed. Conviction part of the impugned judgment is maintained. Applicant is reported to have remained in jail for a period of two months, his sentence is reduced to the period already undergone by him.

10. The applicant is on bail. His bail bond shall stand discharged.

11. Revision thus partly succeeds.

Sd/-
(Rajani Dubey)
Judge