

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 30 of 2011**

- Lalchand @ Lallu Dhimar S/o Kaliram, aged about 30 years, resident of village- Gagra, Thana – Arjuni, District- Dhamtari (C.G.)

---- Applicant**Versus**

- State of Chhattisgarh, through the District Magistrate, dhamtari, District- Dhamtari (C.G.)

---- Respondent

For Appellant	:	Shri Sunil Sahu, Advocate
For Respondent/State	:	Shri Suryakant Mishra, PL

Hon'ble Smt. Justice Rajani Dubey**Order On Board****29.03.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 07/01/2011 passed by the Additional Sessions Judge, (FTC) Dhamtari, in Cr. Appeal No. 94/2010 whereby, the learned appellate Court below while maintaining the conviction of the applicant under Sections 451, 506 Part II, 323 and 354 IPC, has modified the sentence of the accused/applicant as awarded by the learned Judicial Magistrate First Class, Dhamtari, vide its judgment dated 07/12/2010 in Criminal Case No. 436/2010 as described below :-

Conviction	Sentence
Under Section 451 of IPC	R.I. for 6 months and fine of Rs. 1,000/-.
Under Section 506-II of IPC	R.I. for 6 months and fine of Rs. 1,000/-.
Under Section 323 of IPC	R.I. for 6 months and fine of Rs.1,000/-.

Under section 354 of IPC	R.I. for 1 year and fine of Rs. 2,000/-.
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2. Brief facts of the case are that on 25/08/2010 at 1.30 PM, when prosecutrix (PW-1) was alone in her house, the accused/applicant came to her house and asked for sewing thread for the purpose of stitching. After giving sewing thread, the accused/applicant stayed there for some time and when the prosecutrix asked the accused/applicant to go, he caught hold of her hand and tried to outrage her modesty. When she raised cries, the accused/applicant gagged her mouth, dragged her and also threatened that if she discloses the matter, she would be killed, thereafter, he ran away from the spot. Upon hearing her cries, neighbour Jai Kishan, Dr. Khemraj and Pyarelal reached there whom she narrated the incident and then FIR was lodged in the police station against the applicant and offence under Sections 451, 354, 323 and 506 IPC was registered. After completion of usual investigation, charge-sheet was filed and charges were framed against the accused/applicant under Sections 451, 506-II, 323 and 354 of IPC.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 10 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 07/12/2010, learned Judicial Magistrate First Class has convicted and sentenced the applicant. This order was appealed by the applicant and in the appeal, the learned Appellate Court while maintaining the conviction, has modified the sentence of the applicant as described above. 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 applicants submits that he 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 2010 (before amendment in Section 354 IPC) and thereby more than 9 years have rolled by since then. He is aged about more than 40 years. The applicant has already remained in jail for about 25 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), Gayatri Sinha (PW-2), Jai Kishan (PW-4), Lalesh Kumar (PW-6), Roopdas (PW-7), R.S.Mishra (PW-9) and Dr. U. L. Kaushik (PW-10), established the involvement of the accused/applicant in the crime in question beyond reasonable doubt. This Court does not find any illegality in the findings recorded by both the Courts below as regards conviction of the appellants under Sections 451, 506-II, 323 and 354 of IPC.

9. As regards sentence part, keeping in view the facts that the incident had taken place in the year 2010 (before amendment in Section 354 IPC), and further that the appellant had already remained in jail for about 25 days. 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 applicant under Sections 451, 506-II, 323 and 354 of IPC, he is sentenced to the period already undergone by him.

Sd/-

(Rajani Dubey)
JUDGE