

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 416 of 2010

- Padamnath Bhardwaj, S/o Murharam Bhardwaj, aged about – 30 years, R/o Village Markel, Thana Nagarnar, Distt.-Bastar, C.G.

---- Applicant

Versus

- State of Chhattisgarh, Through Collector Bastar, Distt.-Bastar, C.G.

---- Respondent

For Applicant	:	Shri Alok Dewangan, Adv.
For Respondent/State	:	Shri Subhash Yadav, Dy. G.A.

Hon'ble Smt. Justice Rajani Dubey

Order On Board

06.05.2019

The present revision arises out of the impugned judgment of conviction and order of sentence dated 13.08.2010 passed by the Sessions Judge, Bastar at Jagdalpur, C.G. in Cr. Appeal No. 33/2009, whereby the learned appellate Court below has confirmed the conviction and sentence of the applicant as awarded by the learned Judicial Magistrate First Class, Jagdalpur, vide its judgment dated 09.07.2009 in Cr. Case No. 03/2009, for the offence under Section 354 of the IPC and sentenced him to undergo RI for three months and to pay fine of Rs. 500/-, respectively plus default stipulations.

2. Brief facts of the case are that on 09.01.2009 at about 08.00 p.m., in the night at village Markel in Khaspara, prosecutrix along with her younger sisters Paro and Agadi were going towards the agricultural field for attending nature call. At that time, the applicant came there and tried to outrage the modesty of the prosecutrix by caught of hold her

hands. Thereafter, the prosecutrix started raising alarm, due to which her uncle Paritram came to the spot and on seeing her uncle, applicant left her hand and ran away. The report was lodged against the applicant in the police station Nagarnar. After completion of investigation, charge-sheet was filed and charges were framed against the accused/applicant under Section 354 of the IPC by the trial Court.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 08 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 innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 09.07.2009, learned Judicial Magistrate First Class has convicted the accused/applicant under Section 354 of the IPC and sentenced him to undergo RI for three months and to pay fine of Rs. 500/-, plus default stipulation. 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 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 this 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 2009 and thereby more than 10 years have rolled by since then, he is aged about 40 years, the applicant has already remained in jail for

about 10 days and no useful purpose would be served in again sending him to jail. Therefore, it would be appropriate in the interest of justice if the sentence imposed upon him may be reduced to the period already undergone by him.

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

8. Having gone through the material on record and the evidence of the witnesses including Ku. Paro (PW-1), Ku. Agadi (PW-2), Paritram (PW-3), Prosecutrix (PW-4) Baidyanath (PW-5), Mr. Pramod Shrivastava (PW-7) and Mr. K.D. Singh (PW-8), established the involvement of the accused/applicant in 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 it is hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 2009 and further that the applicant has already remained in jail for about 10 days, no useful purpose would be served in again sending him to jail.

10. In view of the above, the revision is partly allowed. While maintaining the conviction of the applicant, his jail sentence is reduced to the period already undergone by him. The applicant is reported to be on bail. His bail bond shall stand discharge.

Sd/-
(Rajani Dubey)
Judge