

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 569 of 2006**

- Bharat @ Bharat Lal S/o Ramdhan Kurmi aged about 28 years, resident of village Kanki, Tahsil Chowki, Uрга, P.S. Kotwali, Korba, District-Korba, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh, Through : the District Magistrate, District-Korba, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Yogendra Chaturvedi, Adv.
For Respondent/State	:	Ms. Akshra Amit, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****04/09/2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 13.09.2006 passed by the learned Sessions Judge, Korba, in Cr. Appeal No. 15/2005 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, Korba, vide its judgment dated 09.05.2005 in Criminal Case No. 1615/2001 for the offence punishable under Sections 451, 354 and 323 of IPC and sentenced him to undergo R.I. for six months with fine of Rs. 100/-, R.I. for six months, R.I. for 6 months, respectively, plus default stipulation.

2. Brief facts of the case are that prosecutrix is residing in village Kanki and doing agricultural work. On the date of incident i.e. on 26.10.2001, the prosecutrix, was alone in her house at 5:00 evening and going to prepare food, her children were playing outside and husband was in courtyard, at that time the accused/applicant came there and asked from the Prosecutrix about her children and husband. Prosecutrix said the accused that no one is in house. Then the accused/applicant entered into the house, closed the door, caught the chest of the Prosecutrix, fell-down her on earth and tried to outrage her modesty. The neighbours came there, thereafter the

accused/applicant tried to ran away from the spot. At that time the husband of Prosecutrix also came there. The accused/applicant committed *Marpit* with him, prosecutrix lodged FIR against the applicant. After completion of investigation, charge sheet was filed and charges were framed against accused/applicant under Sections 451, 354 and 323 of IPC.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 10 witnesses and accused examined 3 witnesses in his defence. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the circumstances appearing 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 09.05.2005, learned Judicial Magistrate has convicted and sentenced the accused/applicant for the offence punishable under Sections 451, 354 and 323 of IPC and sentenced him to undergo R.I. for six months with fine of Rs. 100/-, R.I. for six months, R.I. for 6 months, respectively, plus default stipulation. This order was appealed by the applicant and in the appeal, learned Appellate Court has affirmed the conviction and sentence of the appellant. Hence, the present revision.

5. Learned counsel for the applicant 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 2001, and thereby more than 18 years have rolled by since then. The applicant is aged about more than 50 years and he 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.

6. Learned counsel for the State has no objection to this proposition.

7. Heard learned counsel for the State and perused the material on record including the impugned judgment.

8. Having gone through the material on record and the evidence including the prosecutrix (PW-1), Rajkumar (PW-2), Jaikumar (PW-5), Dr. Ashok Makhija (PW-8), and D.N. Toppo (PW-10), involvement of the accused/applicant in the crime in question stands proved beyond reasonable doubt. This Court does not see any illegality in the findings recorded by both

the Courts below.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2001, and further that the applicant had already remained in jail for about 25 days, therefore, 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, he is sentenced to the period already undergone by him. The applicant is on bail. His bail bond will stand discharged.

**Sd/-
(Rajani Dubey)
JUDGE**