

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 136 of 2014**

- Mukesh Baghel S/o Amardas Baghel, aged about 27 Years, Caste-Satnami, R/o Aawas Para Dharmi PS Gunderdehi Civil And Revenue Distt. Balod, Chhattisgarh

---- Appellant**Versus**

- State Of Chhattisgarh Through Police Station Gunderdehi Civil And Revenue Distt. Balod, Chhattisgarh

---- Respondent

For Appellant	:	Mr. Shashank Thakur, Advocate.
For Respondent/State	:	Ms. Smriti Shrivastava, Panel Lawyer.

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****16/12/2019**

1. This appeal has been preferred against the judgment dated 20/12/2013 passed in Sessions Trial No. 28/2013 by the Learned Sessions Judge, Balod, District Balod (C.G.), whereby the Appellant has been convicted under Sections 450 & 376 of the Indian Penal Code and sentenced to undergo RI for 10 years with fine of Rs. 2,000/- and RI for 10 years with fine of Rs. 2,000/- respectively, with default stipulation. Both the sentences to run concurrently.
2. Facts of the case are that at the time of incident, the prosecutrix was aged about 16 years. According to the prosecution story on 17.11.2012 at about 3 PM when prosecutrix (PW-1) was alone in her home, the Appellant entered in her home and committed forcible sexual

intercourse with her. He also threatened the prosecutrix not to tell anything to anyone about the incident. Just after the incident, father of the prosecutrix Dhanraj Sahu (PW-2) came there then the prosecutrix told him about the entire incident. Statement of the prosecutrix as well as other witnesses were recorded. After completion of investigation, a charge-sheet was filed. Trial Court framed the charges. As many as 8 prosecution witnesses have been examined. One defence witness Rohit Kumar Chandrakar (DW-1), Head Master of Primary School has been examined. Statement of the Appellant under Section 313 of the Cr.P.C has been recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that it has also been held by the Trial Court that prosecutrix was a consenting party and with regard to her age there are contradictory evidence available on record. He further submits that the Appellant has already undergone about 7 years out of total jail sentence of 10 years, he has no criminal antecedent and he is facing the *lis* since 2012, therefore, he prays that the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.
5. Per contra, learned Counsel appearing for the State supported the

impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.

6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. Considering the above facts and circumstances of the case, particularly considering that according to the opinion of the Trial Court, the prosecutrix was a consenting party and further considering the fact that out of total jail sentence of 10 years, the Appellant has undergone about 7 years and 1 month, he is facing the *lis* since 2012 and there is no criminal antecedent against him, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the jail sentence awarded to him is reduced to the period already undergone by him.
8. Consequently, the appeal is partly allowed. The conviction of the Appellant under the aforementioned section is affirmed and he is sentenced to the period already undergone by him. The fine sentence is affirmed.
9. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge