

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 159 of 2013**

- Smt. Pratima Bai W/o Parakhsai Aged About 40 Years, R/o Village Tilanga, P.S. Farsabahar, District Jashpur, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh, Through - District Magistrate Jashpur, District-Jashpur, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Harish Kuntiya, Adv.
For Respondent/State	:	Mr. B.L. Sahu, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****28/08/2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 14.01.2013 passed by the learned Sessions Judge, Jashpur, in Cr. Appeal No. 86/2012 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, Jashpur, vide its judgment dated 17.09.2012 in Criminal Case No. 490/2011 for the offence punishable under Section 25 (1-B) (B) of Arms Act and Section 5 of Tonhi Pratadna Nivaran Adhiniyam and sentenced him to undergo R.I. for one year with fine of Rs. 500/- and R.I. for six months with fine of Rs. 500/- respectively, plus default stipulation.

2. Brief facts of the case are that on 10.12.2012 at about 8:00 am. applicant along with her husband using filthy language against complainant Rukmani Bai and threatened her to kill with sword and also called her Tonhi and pulled her saree. Complainant lodged FIR against the applicant and other co-accused. After completion of investigation, charge sheet was filed and charges were framed against accused/applicant and other co-accused under Sections 294, 506 (II) of IPC and Section 5 of Tonhi Pratandna Nivaran Adhiniyam and Section 25 (1-B) (B) of the Arms Act.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 11 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which she denied the circumstances appearing against her and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 17.09.2012, learned Judicial Magistrate has acquitted the co-accused from all the charges and applicant for offence under sections 294, 506 (II) and convicted the accused/applicant for the offence punishable under Section 25 (1-B) (B) of Arms Act and Section 5 of Tonhi Pratadna Nivaran Adhiniyam and sentenced her to undergo R.I. for one year with fine of Rs. 500/- and R.I. for six months with fine of Rs. 500/- 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 2011, and thereby more than 8 years have rolled by since then. The applicant is aged about more than 50 years and she has already remained in jail for about 3 months, and no useful purpose would be served in again sending her to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon her may be reduced to the period already undergone by her.

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 of the Sheetal Say (PW-1), Rukhmani Bai (PW-2), Sanpat Ram (PW-3), Rajendra (PW-4), Shri Ram (PW-5), Shanicharo Ram (PW-6), Ishwar Say (PW-7), K. K. Sahu (PW-8), Dr. Y.K. Toppo (PW-10) and Ishwar Prasad (PW-11), established 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 2011, and further that the applicant had already remained in jail for about 3 months, therefore, her sentence is liable to be reduced to the period already undergone by her.

10. In view of the above consideration, the revision is partly allowed. While maintaining the conviction of the applicant, she is sentenced to the period already undergone by her. The applicant is on bail. Her bail bond will stand discharged.

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