

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 283 of 2013**

- Punitram Sahu S/o Premram Sahu Aged About 32 Years, R/o Village Dhelki, Chowki Lavan, P.S. Kasdol, District Balodabazar, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh, Through : The District Magistrate, District Balodabazar, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Anand Gupta, From Legal Aid.
For Respondent/State	:	Mr. Wasim Miyan, PL.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****27.08.2019**

1. The present revision arises out of the impugned judgment of conviction and order of sentence dated 23.04.2013 passed by the learned Additional Sessions Judge, Balodabazar, in Cr. Appeal No. 43/2013 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, Kasdol, District-Raipur, vide its judgment dated 10.05.2012 in Criminal Case No. 260/2011 for the offence punishable under Section 354 of IPC and sentenced him to undergo R.I. for 2 years & fine of Rs. 1000/-, plus default stipulation.

2. Brief facts of the case are that complainant lodged a report that on 10.01.2011 at about 7:30 in the evening complainant Smt. Nirmala Bai went to answer the call of nature, then accused caught hold her hand and removed her clothes. When the complainant trying to call for help, the applicant pressed her mouth but the complainant called for help, then applicant ran away from the spot. The complainant return to house and narrated the incidence to her husband and mother-in-law. After completion of investigation, charge sheet was filed and charges were framed against accused/applicant under Section 354 of IPC.

3. So as to hold the accused/applicant guilty, the prosecution has examined as many as 7 witnesses. 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 10.05.2012, learned Judicial Magistrate has convicted and sentenced the accused/applicant for the offence punishable under Section 354 of IPC and sentenced him to undergo R.I. for 2 years & fine of Rs. 1000/-, 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. 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 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 has already remained in jail for more than 10 days, and remained in jail from 2016 till date in other case, 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 proposition.

8. Having gone through the material on record and the evidence of the witnesses including Prosecutrix (PW-1), Devdatta (PW-2), Belsiya (PW-3), Guhadas (PW-4), Narendra Kumar (PW-5), Rajau (PW-6) and Kheeman Prasad (PW-7), established the 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 as regards conviction it is hereby

maintained.

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 more than 10 days and remained in jail from 2016 till date in other case, 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