

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 277 of 2013

- Dankumar Sahu, S/o Lt. Premlal Sahu, Aged About 27 Years, R/o Village Ganiyari, P.S. Kharora, Distt.- Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through PS Gudiari, Raipur, Distt.-Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Shri A.D. Kuldeep, Adv.
For Respondent/State	:	Shri Wasim Miyan, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

15.07.2019

The present revision arises out of the impugned judgment of conviction and order of sentence dated 17.04.2013, passed by the learned Sessions Judge, Raipur, in Cr. Appeal No. 59/2013 whereby the learned appellate Court below while maintaining the conviction of the applicant modified the sentence awarded by the learned Judicial Magistrate first Class, Raipur, vide its judgment dated 31.01.2013 in Cr. Case No. 139/2012 for the offence under Section 451 and 506 Part-2 of the IPC, and sentenced him to undergo RI for three months along with fine of Rs. 2000/-, RI for three months along with fine of Rs.2000/-, with default stipulations.

2. Brief facts of the case are that on 10.05.2012, at about 18.30, when complainant Punni Bai was all alone in her house, the applicant/accused entered her house, started abusing her in filthy

language, threatened her for life and went away. Thereafter, the report was lodged in the police station Gudiyari by the complainant and offence was registered against applicant/accused. After filing of the charge sheet, the trial Court framed charges against the accused/applicant under Section 451, 294 and 506 Part-II of the IPC.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 06 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charge leveled against him and pleaded his innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment and order dated 31.01.2013, learned Magistrate has convicted the accused/applicant for the offence under Sections 451, 294 and 506 Part-II of the IPC, and sentenced him to undergo RI for six months along with fine of Rs. 500/-, RI for three months and RI for six months, with default stipulation. This order was appealed by the applicant and in the appeal the learned Court below has acquitted the applicant under Section 294 of the IPC, but, the conviction has been maintained under Section 451 and 506 Part-II of the IPC, and the sentence has been modified to three months and to pay fine of Rs.2000/- and RI for three months and to pay fine of Rs.2000/-, with default stipulations. 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 the 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 2012 and thereby more than 07 years have rolled by since then, he is aged more than about 40 years, the applicant has already remained in jail for about more than 10 days, no useful purpose would be served in again sending him to jail, therefore, it would be in the interest of justice if the sentence imposed on 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 Punni Bai(PW-1), Lakshmi Sahu(PW-2), Anita Bai Gaikwad(PW-3), Sumitra Bai(PW-4), Lakhanlal Sahu(PW5) and Khediya Bai(PW-6) establishes the involvement of the accused/applicant in the 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 451 and 506 Part-II of the IPC, being so it is hereby maintained.

9. Taking into consideration the aforesaid material aspects of the case and the fact that the incident had taken place in the year 2012 and further considering that the applicant has already remained in jail for about more than ten days, the revision is partly allowed. Conviction part of the impugned judgment is maintained. Applicant is reported to have remained in jail for a period of more than ten days, his sentence is reduced to the period already undergone by him. The applicant is reported to be on bail. His bail bonds stand discharged.

10. Revision thus partly succeeds.

Sd/-
(Rajani Dubey)
Judge