

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 633 of 2015

Naveen Kumar Balmiki @ Vicky, S/o Basant Kumar Balmiki, Aged About 18 Years, R/o Vindhyavasini Ward Danitola, Dhamtari, Police Station, Dhamtari, Civil and Revenue District Dhamtari, Chhattisgarh

---- Applicant

Versus

State of Chhattisgarh, Through District Magistrate, Dhamtari, District Dhamtari, Chhattisgarh

---- Respondent

For Applicant	:	Shri R.K. Pali, Advocate
For Complainant	:	Shri K.P.S. Gandhi, Advocate
For Respondent/State	:	Shri Wasim Miyan, Panel Lawyer

Hon'ble Smt. Justice Rajani Dubey

Order on board

19.08.2019

The applicant has preferred this revision against order dated 29.07.2015, passed by Learned Additional Sessions Judge(FTC), Dhamtari, in Criminal Appeal No.24/15, whereby the learned appellate Court below has affirmed the conviction and sentence of the accused/applicant awarded by the learned Judicial Magistrate, First Class, Dhamtari, vide its judgment dated 07.02.2015 in Cr. Case No. 166/2014 for the offence under Section 363 of the IPC, and sentenced him to undergo RI for three years and to pay fine of Rs. 500/-, with default stipulation.

2. Facts of the case, in brief, are that on 04.02.2014, the complainant and his family members were sleeping in the night, after taking their meals, at about 1.00 a.m. they found that daughter of the

complainant(prosecutrix) was not there in the house. They all searched around the locality and found that their neighbor Naveen @ Vicky is also missing. On the basis of suspicion, the complainant lodged a report against the applicant in the police station – Dhamtari. After completion of investigation charge-sheet was filed and charges were framed against the present applicant under Section 363 of the IPC.

3. The learned trial Court and the appellate Court have convicted the applicant under Section 363 of the IPC and sentenced him to undergo RI for three years and to pay fine of Rs.500/- with default stipulation, hence this revision.

4. Before learned trial Court, the applicant and the complainant filed an application under Section 320(6) of Cr.P.C. with their affidavits and also filed marriage certificate of applicant and complainants' daughter. Learned counsel for the applicant submitted that the applicant and complainant are close relatives and they are hailing from the same village, now the complainant is not willing to proceed with the case and also filed a petition to compound the offence under Section 363 of the Cr.P.C..

5. The complainant and the applicant were present before this Court on 03.04.2018, their statements were also recorded before the Additional Registrar (Judicial), in which they stated that they are close relatives and also hailing from the same village and they are now living in harmony and now the complainant is not willing to proceed with the case further and he wants to compound the offence.

6. Even though the offence under Section 363 of the Cr.P.C. is not compoundable. Considering the facts and circumstances of the case and also considering the fact that both the complainant and applicant

are hailing from the same village, they are close relatives and the dispute between the parties has already been settled and the complainant is also not willing to proceed with the complaint, in the interest of justice, I am inclined to compound the offence.

7. Consequently, the sentence imposed upon the applicant vide order dated 29.07.2018, passed by Learned Additional Sessions Judge(FTC), Dhamtari, in Criminal Appeal No.24/15, is set aside and the above said offence stands compounded and applicant is acquitted from the charge under Section 363 of the IPC.

8. The applicant is on bail. His bail bond shall stand discharged.

9. The revision petition is accordingly allowed.

Sd/-
(Rajani Dubey)
Judge

yasmin