

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 849 of 2004**

Pyara Singh, S/o Harcharan Singh, aged about 28 years, Occupation:
Mechanic, R/o Chandmari, Raigarh, District: Raigarh (C.G.)

---- Appellant**Versus**

State Of Chhattisgarh through the D.M. Raigarh, District-Raigarh
(C.G.)

---- Respondent

For Appellant	:	Shri Krishna Tandon, Advocate
For State/Respondent	:	Shri Shubham Verma, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****16.01.2020**

1. This appeal has been preferred against the judgment dated 27.09.2004 passed in S.T. No.48 of 2004 by the 4th Additional Sessions Judge (Fast Track Court) Raigarh (C.G.) wherein, the Appellant has been convicted under Section 363 of IPC, 366 of IPC and sentenced to undergo RI for 07 years with a fine of Rs.200/-, RI for 07 years with a fine of Rs.200/- respectively with default stipulation.
2. According, to the case of prosecution at that relevant time, age of the prosecutrix was about 17 years 06 months. Father of the prosecutrix Madhur Singh was posted at Bhopal (M.P.) as a Vehicle Driver and his family including prosecutrix resided at Raigarh (C.G.). On 23.03.2003, the father of the prosecutrix received an information that her daughter/prosecutrix went to school and thereafter she is missing, after receiving such information he came to Raigarh. On being inquired, it was found by him that prosecutrix was abducted and taken away by the present

Appellant. On the aforesaid background father of the prosecutrix Madhur Singh made a written complaint vide (Exhibit-P-6) and on the basis of said offence was registered. During course of investigation, prosecutrix was recovered on 17.12.2003, a recovery Panchnama vide (Exhibit P-5) was prepared in this regard. Statements of the prosecutrix as well as other witnesses under Section 161 of Cr.P.C were recorded. After completion of investigation, charge sheet was filed against the Appellant and Trial Court framed the charges. To robe the Appellant the prosecution has examined as many as total 14 witnesses. In his statement recorded under Section 313 of Cr.P.C the Appellant denied his guilt and pleaded his innocence and false implication in the matter however, no defence witness was examined. After completion of trial, Trial Court convicted and sentenced the Appellant as mentioned in Para 01 of this judgment. Hence this appeal.

3. 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 both the Appellant and prosecutrix have already performed marriage and they are residing as husband and wife together and they are blessed with a child also. Moreover, he submits that during Trial, the Appellant was in jail for about 09 days and after the judgment of Trial Court he remained in jail for about 14 days. He lastly submits that the Appellant has already undergone about 23 days in jail out of total jail sentence of 07 years, he has no criminal antecedent and he is facing the *lis* since 2004, i.e., for about 15 years. Therefore, the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.

4. On the contrary, learned State Counsel opposed the appeal and supported the impugned judgment.
5. I have heard learned counsel appearing on behalf of the parties and perused the record minutely.
6. Considering the above facts and circumstances of the case, particularly considering that presently the prosecutrix and the Appellant are residing happily as husband & wife and out of total jail sentence of 07 years, the Appellant has undergone about 23 days, he is facing the *lis* since 2004 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.
7. 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.
8. 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