

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 2437 of 2000**

- Ashwani Bai D/o Dasruram, aged about 27 years, R/o. Village- Tapani, Police Chowki- Bhakhara, Tahsil & Police Station- Khurd, District Dhamtari (MP)

---- Appellant**Versus**

- State of Madhya Pradesh Through- Police Chowki- Bhakhara, Police Station- Khurd, District Dhamtari (MP)

---- Respondent

For Appellant	:	Shri Bhashkar Pyasi, Advocate
For Respondent/State	:	Shri Ishwar Jaiswal, PL

Hon'ble Smt. Justice Rajani DubeyOrder On Board**31.08.2021**

1. The present appeal arises out of the impugned judgment of conviction and order of sentence dated 10.08.2000 passed by the Additional Sessions Judge, Dhamtari in Sessions Trial No. 77/2000 whereby, the learned Appellate Court acquitted the appellant of the charges under Section 302& 201, convicted her under Section 318 of the IPC and sentenced her to undergo R.I. for one year.

2. Brief facts of the case are that on 30.11.1999, one Choturam Kotwar informed the police chowki alleging that Ashwini Bai (appellant) gave birth to an illegitimate girl child and, due to force of the society, she buried the child. After completion of investigation, charge-sheet was filed against the appellant and her mother and charges were framed against them under Section 302/34, 201 & 318 of the IPC.

3. So as to hold the accused guilty, the prosecution has examined as many as 14 witnesses. Statement of the accused/appellant was also recorded under Section 313 of the

Cr.P.C. in which she denied the charge leveled 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 10.08.2000, learned Additional Sessions Judge, Dhamtari has acquitted Rambati (mother of the appellant) of all charges and also the present appellant of the charges under Section 302, 201 and convicted appellant Ashwani Bai under Section 318 of the IPC and sentenced her to undergo R.I. for one year. Hence, the present appeal.

5. Learned counsel for the appellant submits that he is not pressing the revision so 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 1999, and thereby more than 21 years have rolled by since then. The appellant is a 47 years old lady. The appellant has already remained in jail for about 8 days 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 parties and perused the material on record including the impugned judgment.

8. Having gone through the material on record and the evidence of the witnesses Shivkumar (PW-1), Anandram (PW-2), Ram Bai (PW-4), Manoharlal (PW-5) and Chhabilal (PW-10) 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 the Court below as regards conviction of the appellant under Section 318 of the IPC.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 1999, at that time, the appellant was widow of 27 years of age. The trial Court acquitted the appellant of

the charges under Sections 302 and 201 of the IPC and finds that she was hiding the news of her delivery due to pressure of the society and she buried the dead body of her child. As the appellant had already remained in jail for 8 days, therefore, her sentence is liable to be reduced to the period already undergone by her.

10. In view of the above consideration, the appeal is partly allowed. While maintaining the conviction of the appellant, she is sentenced to the period already undergone by her.

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

V/-