

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 347 of 2006**

- Chandrakant Sahu, S/o Jitendra Sahu, aged about 18 years, R/o Dargahan, P.S. Gurur, District- Durg, (C.G.).

---- Appellant**Versus**

- State of Chhattisgarh, through P.S. Gurur, District- Durg, (C.G.).

---- Respondent

For Appellant : Mr. Parag Kotecha, Advocate

For Respondent/State : Ms. Ishwari Ghritlahre, P.L.

Hon'ble Smt. Justice Rajani DubeyOrder On Board by Virtual Hearing**12/08/2021**

1. Heard.

2. The present appeal arises out of the impugned judgment of conviction and order of sentence dated 20.03.2006 passed by the Additional Sessions Judge, Balod, District- Durg, in S.T. No. 239/2005 whereby, the learned Additional Sessions Judge, Balod convicted the appellant and sentenced him as under :-

S. No.	Conviction	Sentence
1.	U/s 354 of IPC	R.I. for 1 year

3. Brief facts of the case are that on 10.08.2005 at about 12:00 midnight, when the prosecutrix came out of her house and went to a narrow passage for urinal, at the relevant time, appellant caught hold of her hand and took her near Kala Manch and committed rape with her. When she raised alarm, appellant threatened her of dire

consequences. Parents of the prosecutrix came there, he ran away from spot. Thereafter, on the next day i.e. 11.08.2005, an FIR (Ex.P/1) was lodged against the appellant under Sections 354 & 506 of IPC. Prosecutrix was medically examined by Dr. A.G. Sheikh (PW-9) and he opined that there was scratch marks, swelling & tenderness on face and there was mild tenderness on her wrist. The seized articles were sent to FSL, Durg for medical examination by Superintendent of Police vide his memo (Ex. P/20). After investigation, charge-sheet was filed against the appellant and charges were framed against the appellant under Section 354 & 506 of IPC.

4. So as to hold the accused/appellants guilty, the prosecution has examined as many as 12 witnesses. Statement of the accused/appellant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded innocence and false implication in the case.

5. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 20.03.2006 passed by the Additional Sessions Judge, Balod, District- Durg, has convicted the appellant and sentenced him for the offence under Section 354 of IPC and sentenced him to undergo R.I. for 1 year. Hence, the present appeal.

6. Heard learned counsel for the parties and perused the material on record including the impugned judgment.

7. Counsel for the appellant submits that he is not pressing the appeal 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 2005, and thereby more than 16 years have rolled by since then, appellant has already remained in jail for about 2 months and 22 days, 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.

8. Learned counsel for the State has no objection to this

preposition.

9. Having gone through the material on record and the evidence of the witnesses, Gayatri Sahu (PW-1), Deepak Kumar (PW-2), Gajanand Thakur (PW-3), Ramesh Kumar (PW-4), Dr. Kunti Thakur (PW-5), Koman Singh (PW-6), Shantilal Sahu (PW-7), G.R. Rawte (PW-8), Dr. A.G. Sheikh (PW-9), R.S. Sinha (PW-10), Bhamaru Ram (PW-11), Jayant Sahu (PW-12), it can be established that the involvement of the accused/appellant in the crime in question has been proved beyond reasonable doubt. This Court does not see any illegality in the findings recorded by appellate Court below as regards conviction of the appellant under Section 354 of IPC.

10. As regards sentence, keeping in view the facts that the incident had taken place in the year 2005, the appellant had already remained in jail for about 2 months and 22 days, therefore, I am of the view that ends of justice would be served, if the sentence imposed on him is reduced to the period already undergone by him.

11. In view of the above, the appeal is partly allowed. While maintaining the conviction of the appellant, he is sentenced to the period already undergone by him. The appellant is reported to be on bail. His bail bonds shall stand discharged.

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

R/-