

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No.249 of 2015**

- Smt.Aarti Sonkar, W/o Shyamacharan Sonkar, aged about 20 years, R/o Village Choubebandha, Police Station Rajim, Civil Distt. Raipur, Rev. Distt. Gariyaband, Chhattisgarh.

---- Appellant**Versus**

- State of Chhattisgarh Through The Police Station, Rajim, Civil Distt. Raipur, Rev. Distt. Gariyaband, Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Amit Kumar Sahu, Advocate
For Respondent	:	Mr. Ghanshyam Patel, Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****16/06/2021**

1. This appeal has been preferred against the judgment dated 24/01/2015 passed in Sessions Trial No.41/2014 by the Additional Sessions Judge, Gariyaband, (C.G.), whereby the Appellant has been convicted under Section 304 Part-I of the Indian Penal Code and sentenced to undergo R.I. for 10 years and to pay fine of Rs. 500/- with default stipulation.
2. In the present case, appellant is the wife of deceased namely Shyamcharan Sonkar. Their marriage was solemnized on 21/4/2014.

According to the case of prosecution, on 30/4/2014 appellant and her husband after taking dinner went inside their room for sleep. It is alleged that on the next day, husband of the appellant was found dead inside the room. Blood was discharging out from his nose and ears. Thereafter, merger intimation was lodged. It is alleged that on the date of incident, at night, when husband of the appellant wanted to make physical relationship with the appellant, she refused as she was undergoing menses period. When deceased tried to make forcible sexual intercourse with the appellant, she pushed him, due to which deceased fell on the edge of the bed and sustained injury on his head and when he screamed, appellant pressed his mouth and nose with a pillow and committed murder. After completion of investigation, a charge-sheet was filed. Trial Court framed the charges. To prove the guilt of the accused/appellant, prosecution has examined as many as 13 witnesses. One defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C has been recorded, wherein she has pleaded her innocence and false implication in the matter.

3. After trial, the trial Court acquitted the appellant from the offence punishable under Section 302 of the I.P.C., however, convicted and sentenced the appellant as mentioned in paragraph 1 of this judgment. Hence, this appeal.
4. 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 the appellant is the wife of

the deceased and incident occurred because deceased tried to make forcible sexual intercourse with her. There was no such intention of the appellant to kill the deceased and it was not in her knowledge that her husband would die. Appellant is a lady and she has already undergone about 7 years and 1 month out of total jail sentence of 10 years, she has no criminal antecedent and she is facing the *lis* since 2015, therefore, it is prayed that the jail sentence awarded to the appellant may be reduced to the period already undergone by her.

5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. Considering the above facts and circumstances of the case, particularly considering that out of total jail sentence of 10 years, the appellant has undergone about 7 years and 1 month, she is facing the *lis* since 2015 and there is no criminal antecedent against her, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the appellant, the jail sentenced awarded to her is reduced to the period already undergone by her.
8. Consequently, the appeal is partly allowed. The conviction of the appellant under the aforementioned section is affirmed and she is sentenced to the period already undergone by her. The fine sentence is affirmed.

9. 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