

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 759 of 2009**

1. Anand Kumar, S/o Late Jay Singh, aged about 22 years, R/o Village Mardel, Police Station Daundi, District – Durg, (C.G.).
2. Bharat Nareti, S/o Ray Singh Nareti, aged about 22 years, R/o Village Puttarwahi, Police Station Daundi, District – Durg, (C.G.)

---- Appellants**Versus**

- State of Chhattisgarh Through Police Station Bhanupratappur, District North Bastar Kanker, (C.G.).

---- Respondent

For Appellants	:	Smt. Savita Tiwari, Advocate
For Respondent	:	Shri Sushil Sahu, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****20/07/2021**

1. Learned Counsel appearing on behalf of the appellants submits that appellant No.2 namely Bharat Nareti has been released from jail on 04/10/2014 after completion of entire jail sentence imposed upon him by the trial Court. Therefore, she does not want to press the instant appeal

with respect to appellant No.2.

2. Accordingly, the instant appeal is dismissed as not pressed with respect to appellant No.2 namely Bharat Nareti.
3. This appeal has been preferred against the judgment dated 21/10/2009 passed in Sessions Trial No.45/09 by the Additional Sessions Judge (F.T.C.), Bhanupratappur, District Uttar Bastar Kanker, (C.G.), whereby the Appellant No.1 namely Anand Kumar has been convicted under Sections 363/34, 366/34 of the Indian Penal Code and sentenced to undergo R.I. for 5 years and to pay fine of Rs. 500/- and R.I. for 5 years and fine of Rs.500/-respectively with default stipulation. (Both sentences to run concurrently).
4. In the present case, appellant No.1 namely Anand Kumar and co-accused Desaram are the cousin brothers of the prosecutrix. According to the case of prosecution, on 17/02/2009, both of them took the prosecutrix with them in the name of visiting '*shivratri mela*' and there they left her with appellant No.2 namely Bharat Nareti and ran away. It is alleged that, thereafter, appellant No.2 developed physical relationship with the prosecutrix and kept her with him for two days. After two days, father of the prosecutrix came there in search of her daughter and found her. Then prosecutrix returned with her father. Thereafter, matter was reported. Statement of prosecutrix and other witnesses were recorded under Section 161 of Cr.P.C. After completion of investigation, a charge-sheet was filed. To prove the guilt of the accused/appellants, prosecution has examined as many as 8 witnesses. No defence witness has been examined. Statement of the Appellants under Section 313 of the Cr.P.C has been recorded, wherein they have pleaded innocence and false

implication in the matter.

5. After trial, the trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
6. Learned Counsel appearing for the Appellant No.1 (Anand Kumar) submits that she does not want to press this appeal on merits and confines her argument to the sentence part only. She further submits that the Appellant has undergone about 1 year and 11 months out of total jail sentence of 5 years. She further submits that main allegations are against appellant No.2 namely Bharat Nareti. She further states that appellant No. 1 has no criminal antecedent and he is facing the *lis* since 2009, therefore, she prays that the jail sentence awarded to the Appellant No.1 may be reduced to the period already undergone by him.
7. 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.
8. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
9. Considering the above facts and circumstances of the case, particularly considering that out of total jail sentence of 5 years, Appellant No.1 has undergone about 1 year and 11 months, he is facing the *lis* since 2009, there is no criminal antecedent against him and main allegations are against appellant No.2, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant No.1, the jail sentenced awarded to him is reduced to the period already undergone by him.

10. Consequently, the appeal is partly allowed. The conviction of the Appellant No.1 under the aforementioned Section is affirmed and he is sentenced to the period already undergone by him. The fine sentence is affirmed.

11. 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