

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRA No. 171 of 2018**

Aseem Patel S/o Sewaram Patel, aged about 20 years, R/o 21  
Block-Mana Camp, District : Raipur, Chhattisgarh

**---- Appellant**

**Versus**

State of Chhattisgarh through The Station House Officer, Police  
Station-Mana Camp, District : Raipur, Chhattisgarh

**---- Respondent**

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|----------------------|---|-------------------------------|
| For Appellant        | : | Mr. Aman Kesharwani, Advocate |
| For State/Respondent | : | Mr. Ravish Verma, G.A.        |

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**Hon'ble Shri Justice Arvind Singh Chandel**

**Judgment on Board**

**18.11.2021**

1. Though, this case has been listed for hearing on application for suspension of sentence and grant of bail to the appellant, but considering the fact that appellant is in jail since 05.01.2017, therefore, at the request of learned counsel for the parties, heard finally.
2. This appeal has been preferred against the judgment dated 15.09.2017 passed in Special Criminal Case No. 41 of 2017 by the learned Seventh Additional Sessions Judge (FTC), District: Raipur, Chhattisgarh wherein, the appellant has been convicted as mentioned below:

| Conviction                                                   | Sentence                                      | In Default                                                       |
|--------------------------------------------------------------|-----------------------------------------------|------------------------------------------------------------------|
| U/s 509 of IPC                                               | RI for 3 years and fine amount of Rs.500/-.   | In default of payment of fine amount additional RI for 6 months. |
| U/s 354 of IPC                                               | RI for 5 years and fine amount of Rs.5,000/-. | In default of payment of fine amount additional RI for 6 months. |
| U/s 8 of POCSO Act, 2012                                     | RI for 3 years and fine amount of Rs.5,000/-. | In default of payment of fine amount additional RI for 6 months. |
| U/s 354 (d) (1) (i) of IPC                                   | RI for 3 years and fine amount of Rs.5,000/-. | In default of payment of fine amount additional RI for 6 months. |
| All the sentences have been directed to be run concurrently. |                                               |                                                                  |

3. According to the case of prosecution, one year prior to 03.01.2017, when the prosecutrix (PW-10), aged about 17 years was returning to her home from tuition, at that time, near Nakti Dharampura turning, the appellant stopped the bicycle of the prosecutrix and touched her chest. The prosecutrix being scared, rushed to her house and did not narrated the incident to anyone. After 4 to 5 days of said incident, again on same place, the appellant had again committed the aforesaid act. The appellant also taken down her cloths for committing intercourse with the prosecutrix. However, somehow the prosecutrix redeemed herself and rushed to her house. On the date of incident i.e. on

03.01.2017, when the prosecutrix was returning from tuition along with her mother and aunt, at that time also the appellant chased them and tried to outrage the modesty of the prosecutrix. The matter was reported by the prosecutrix. After completion of investigation, charge-sheet was filed by the police. To robe the Appellant in the crime-in-question prosecution examined as many as total 16 witnesses. In the statement of Appellant recorded under Section 313 of Cr.P.C, appellant pleaded his innocence and false implication in the matter, however no defence witness was examined by the Appellant. After completion of trial, Trial Court convicted and sentenced the Appellant as mentioned in Para 01 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 in jail since 05.01.2017 and has completed 4 years 10 months jail sentence out of 5 years jail sentence imposed upon him by the concerned Trial Court, he has no criminal antecedent, he is facing the *lis* since 2017 and he is a young boy aged about 20 years. Therefore, it is prayed by counsel that jail sentence awarded to the Appellant may be reduced to the period already undergone by him.
5. On the contrary, learned State Counsel opposed the appeal and supported the impugned judgment.

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 the appellant has completed 4 years 10 months jail sentence out of 5 years jail sentence imposed upon him by the Trial Court, he is facing the *lis* since 2017 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.
8. 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.
9. It is reported that the Appellant is in jail, he be released forthwith if not required in any other case.
10. 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**