

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 749 of 2017

- Smt. Sukbati Gond W/o Mannuram Gond, Aged About 30 Years
R/o Village Latapara, Police Station Shobha, District Gariyaband,
Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through District Magistrate, Gariyaband,
District Gariyaband, Chhattisgarh.

---- Respondent

For Appellant	:Mr. Keshav Dewangan, Advocate.
For State/Respondent	:Mr. Sushil Sahu, P.L.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

28.06.2021

1. This appeal has been preferred against the judgment dated 21.01.2016 passed in Sessions Trial No.15/2015 by the learned Additional Sessions Judge, Gariyaband, Distt. Gariyaband (C.G.) wherein, the Appellant has been convicted for the offence punishable under Section 304 Part 1 of the IPC and sentenced to undergo RI for 10 years and to pay fine of Rs. 200/-, with default stipulation.
2. According to the case of prosecution, complainant Gokul Gond (PW-8) lodged a report in concerned Police Station alleging therein that on 22.08.2014 at around 5 PM, when he

was working in his field at that time Mannu Gond (husband of the Appellant) came to him and told him that his wife has killed deceased Narsing Gond as he was tried to outrage her modesty. On the basis of said report, offence has been registered against the Appellant. Statements of witnesses recorded under Section 161 of Cr.P.C. After completion of investigation, charge-sheet was filed by the Police under Section 302 of the IPC. Trial Court framed the charges against the Appellant. To robe the Appellant in the crime-in-question, the prosecution has examined as many as 15 witnesses. In the statement of the Appellant recorded under Section 313 of Cr.P.C, she has pleaded her innocence and false implication in the matter, however, no defence witness was examined by the Appellant. After completion of trial, Trial Court acquitted the Appellant for the offence punishable under Section 302 of the IPC. However, convicted and sentenced the Appellant under Section 304 Part 1 of the IPC as mentioned in Para 01 of this judgment. Hence, this appeal.

3. 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 at the time of incident, the deceased was committing rape with the Appellant, therefore, to defend herself, the alleged incident was taken place. The Counsel further submits that the Appellant is in jail since 25.08.2014 and completed 7 years out of 10 years of jail sentence, she has no criminal

antecedent and she is facing the *lis* since 2014. Therefore, the jail sentence awarded to the Appellant may be reduced to the period already undergone by her.

4. On the contrary, learned State Counsel opposed the appeal and supported the impugned judgment.
5. I have heard learned counsel appearing on behalf of the parties and perused the record minutely.
6. Considering the above facts and circumstances of the case, particularly considering the fact that at the time of incident, the deceased was trying to outrage the modesty of the Appellant, the Appellant is facing the *lis* since 2014, she has undergone about 7 years out of 10 years of jail sentence and there is no criminal antecedents 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 sentence awarded to her is reduced to the period already undergone by her.
7. Consequently, the appeal is partly allowed. The conviction of the Appellant under Section 304 Part 1 of the IPC is affirmed and against the conviction she is sentenced to the period already undergone by her. The fine sentence for the offence punishable under Section 304 Part 1 of the IPC is also affirmed.
8. It is reported that the Appellant is in jail, she be released

forthwith if not required in any other case.

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