

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 304 of 2020**

1. Rajesh Das Mahant, S/o Chhedidas Mahant, Aged About 25 Years, R/o Village Aamgaon, Police Station Jaijipur, District (Revenue And Civil) Janjgir-Champa, Chhattisgarh, At Present Parsabhatha, Police Station Balkonagar, District Korba, Chhattisgarh.
2. Rubi Mahant, W/o Rajesh Das Mahant, Aged About 20 Years, R/o Village Aamgaon, Police Station Jaijipur, District (Revenue And Civil) Janjgir-Champa, Chhattisgarh, At Present Parsabhatha, Police Station Balkonagar, District Korba, Chhattisgarh.

---- Appellants**Versus**

- State of Chhattisgarh Through : District Magistrate Korba, District (Revenue And Civil) Korba, Chhattisgarh.

---- Respondent

For Appellants	:	Mr. Anand Kesharwani, Advocate.
For Respondent	:	Mr. Sushil Sahu, Panel Lawyer.

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****26/07/2021**

1. This appeal has been preferred against the judgment dated 22/01/2020 passed in Special Case (POCSO) No. 18/2018 by the Additional Sessions Judge (F.T.C.)/ Special Court – POCSO Act, 2012, District Korba, (C.G.), whereby the appellants have been convicted as mentioned below :

<u>Conviction</u>	<u>Sentence</u>
U/s 366-A of the I.P.C.	R.I. for four years and fine of Rs.500/- with default stipulation.
U/s 323 of the I.P.C.	R.I. for one year
U/s 344 of the I.P.C.	R.I. for one year
All sentences to run concurrently	

2. According to the case of prosecution, father of the prosecutrix lodged a report in the police station on 19.04.2018 stating that on 16.04.2018 his minor daughter left the house and went to a shop for buying make-up articles and thereafter, she did not return. On the basis of the said, a missing report was registered on 21.06.2018. Thereafter, victim/prosecutrix was recovered. Statement of the victim/prosecutrix as well as other witnesses were recorded. It has been alleged that co-accused Vicky Sharma is the main accused and present appellants are his relatives. They enticed the prosecutrix and took her to Jammutavi where main accused i.e. Vicky Sharma developed physical relationship with prosecutrix. Thereafter, they committed mar-pit with the prosecutrix, left her alone and ran away. After completion of investigation, a charge-sheet was filed. Trial Court framed the charges. As many as 16 prosecution witnesses have been examined. 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.
3. After trial, the trial Court has convicted and sentenced the appellants

as mentioned in paragraph one of this judgment. Hence, this appeal.

4. Learned Counsel appearing for the appellants 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 appellants have already undergone about three years out of total jail sentence of four years, they have no criminal antecedent and they are facing the *lis* since 2018, therefore, he prays that the jail sentence awarded to the appellants may be reduced to the period already undergone by them.
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 appellants have already undergone about three years out of total jail sentence of four years, they have no criminal antecedent and they are facing the *lis* since 2018, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the appellants, the jail sentenced awarded to them is reduced to the period already undergone by them.
8. Consequently, the appeal is partly allowed. The conviction of the appellants under the aforementioned Section is affirmed and they are sentenced to the period already undergone by them. 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