

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 364 of 2020

- Ashok Sarthi S/o Late Samaru Sarthi Aged About 52 Years R/o Sindhi Colony, Kasturba Nagar, Police Station- Civil Line, District-Bilaspur, Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through Police Station- Civil Line, District-Bilaspur, Chhattisgarh.

---- Respondent

For Appellant	:Mr. Ravi Maheshwari, Advocate.
For State/Respondent	:Mr. HS Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

02.07.2021

1. This appeal has been preferred against the judgment dated 26.02.2020 passed in Special Sessions Case No.03/2019 by the learned Additional Sessions Judge/First F.T.S.C POCSO, Bilaspur, Distt. Bilaspur(C.G.) wherein, the Appellant has been convicted for the offence punishable under Section 354 of the IPC and Section 8 of POCSO Act and sentenced to undergo RI for 3 years and to pay fine of Rs. 500/- and RI for 3 years and to pay fine of Rs. 500/- respectively, with default stipulations. Both the jail sentence to run concurrently.
2. According to the case of prosecution, on 14.11.2018 at

around 2 PM, when father of victim girl returned to his house at that time, the victim girl was not present in his house. On being searched and asked with neighbors, he came to know that the Appellant has taken the victim girl with him to ruins, he went there and saw that the Appellant has removing her clothes, he released the victim girl from his possession, called the Police and reported the matter vide (Ex. P-7). On the basis of said report, offence has been registered against the Appellant. Later on statements of witnesses recorded under Section 161 of Cr.P.C. After completion of investigation, charge-sheet was filed by the Police. Trial Court framed the charges against the Appellant. To robe the Appellant in the crime-in-question, the prosecution has examined as many as 11 witnesses. In the statement of the Appellant recorded under Section 313 of Cr.P.C, he has 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.

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 the Appellant is in jail since 15.11.2018 and completed more than 2 years 8 months out of 3 years of jail sentence, he has no criminal antecedent, he is aged about 55 years and facing

the *lis* since last three years. Therefore, the jail sentence awarded to the Appellant may be reduced to the period already undergone by him.

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 the Appellant is in jail since 15.11.2018 and completed more than 2 years 8 months out of 3 years of jail sentence, he has no criminal antecedent, he is aged about 55 years and facing the *lis* since last three years. 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.
7. Consequently, the appeal is partly allowed. The conviction of the Appellant under Section 354 of the IPC & Section 8 of POCSO Act is affirmed and against the conviction he is sentenced to the period already undergone by him. The fine sentence for the above offence is also affirmed.
8. It is reported that the Appellant is in jail, he 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

Shubham