

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 1077 of 2003**

- Kamlesh alias Bhakkoo, S/o Jailal Giri, Goswami, aged about 24¹/₂ years, Occupation- Labour, R/o Village- Machandur, P.S. Utai, Tehsil & District- Durg, Chhattisgarh.

---- Appellant**Versus**

- State of Chhattisgarh, through the District Magistrate Janjgir-Champa, Chhattisgarh.

---- Respondent

For Appellant : Mr. Abhishek Verma on behalf of
Mr. Aman Pandey, Advocate
For Respondent/State : Mr. Ishwar Jaiswal, P.L.

Hon'ble Smt. Justice Rajani Dubey**Order On Board****15/09/2021**

1. The present appeal arises out of the impugned judgment of conviction and order of sentence dated 05.08.2003 passed by Special Judge & Additional Sessions Judge, Durg (C.G.) in Special Case No. 25/2003 whereby, the learned appellate court convicted the appellant and sentenced him as under :-

S. No.	Conviction	Sentence
01.	U/s 354 of the IPC	R.I. for 6 months and to pay fine of Rs. 500/-, in default S.I. for one month

2. Brief facts of the case are that on 03.02.2003 at about 9:00 A.M., when the prosecutrix (PW-2) was going to take bath, on the way appellant who was standing outside his house, dragged her from behind by holding her shoulder with an intention to outrage her modesty, kissed her and tried to pull her. She however escaped and came back to her house and informed her grandmother about the

incident. Thereafter, an FIR (Ex. P/6) was lodged against the appellant under Section 354 of IPC. Spot-map was prepared vide Ex. P/1. Caste certificate was seized vide seizure memo Ex. P/3. Dr. I.K. Baghwani (PW-6) has medically examined the prosecutrix and opined that injury sustained by her is simple in nature. After investigation, charge-sheet was filed against the appellant and charges were framed against the appellant under Section 354 of IPC.

3. So as to hold the accused/appellant guilty, the prosecution has examined as many as 7 witnesses. Statements of the accused/appellant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded his innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 05.08.2003 passed by Special Judge & Additional Sessions Judge, Durg, the appellant has been convicted for the offence punishable under Section 354 of IPC and sentenced as mentioned in paragraph 1. Hence, the present appeal.

5. Learned counsel for the appellant submits that the learned trial court has erred in holding the appellant guilty for the offence as aforementioned. He further submits that the impugned judgment of conviction and sentence is contrary to law and evidence available on record. The learned trial Court has erred in convicting the appellant U/s 354 of IPC. The learned trial court has misconceived the law involved in the case and misappropriated the evidence on record. He further submits that learned court below has utterly failed to appreciate the statement of prosecutrix (PW-2), Makhanlal (PW-3) and Panchoo Bai (PW-4) as they are contradictory to each other on material facts. The judgment and finding of the trial court is unwarranted by law and against natural justice and liable to be set aside. The incident is said to have taken place in the year 2003, appellant has already remained in jail for about 2 months and no useful purpose would be served in again sending him to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to the

period already undergone by him.

6. Learned counsel for the State has no objection to this preposition.

7. Heard learned counsel for the parties and perused the material available on record including the impugned judgment.

8. Having gone through the material on record and the evidence of the witnesses, it can be established that the involvement of the accused/appellant in the crime in question has been proved beyond reasonable doubt. This Court does not see any illegality in the findings recorded by appellate court below as regards conviction of the appellant under Section 354 of IPC.

9. As regards sentence, keeping in view the facts that the incident had taken place in the year 2003, the appellant has already remained in jail for about 2 months, I am of the view that ends of justice would be served, if the sentence imposed on him is reduced to the period already undergone by him.

10. In view of the above, the appeal is partly allowed. While maintaining the conviction of the appellant under Section 354 of IPC, his sentence is reduced to the period already undergone by him. He be set at liberty, if not required in any other case.

**Sd/-
(Rajani Dubey)
JUDGE**

R/-