

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 417 of 2020

- Ala @ Alauddin Sheikh S/o Khurshed Ali Aged About 33 Years Permanent R/o Raghunathpur, Madnachowk, Police Station Suti-1, District Murshidabad West Bengal Present R/o Indranagar, Tamnaar Police Station Tamnaar, District Raigarh, Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through Arakshi Kendra, Gharghoda District Raigarh, Chhattisgarh.

---- Respondent

For Appellant	:Mr. Amit Sharma, Advocate.
For State/Respondent	:Mr. Ravi Maheshwari, P.L.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

18.08.2021

1. This appeal has been preferred against the judgment dated 02.03.2020 passed in Special Sessions Case (POCSO) No.12/2018 by the learned Additional Sessions Judge, Gharghoda, Distt. Raigarh(C.G.) wherein, the Appellant has been convicted for the offence punishable under Section 8 of the POCSO Act and sentenced to undergo RI for 4 years and to pay fine of Rs. 2,000/-, with default stipulation.
2. In this case, the age of the victim girl at the relevant time was about 7 years. According to the case of prosecution, on 02.11.2017 at around 11:30 AM, victim girl (PW-1) apprised her father contending that, when she was playing around her

house, the Appellant came to her and took her near Arhar fields and said to her that if she will take out her undergarments then he will give her Rs. 10/-, whereby some lady came near the field after which the Appellant ran away from there. Thereafter, the matter was reported by father of the victim girl. On the basis of said report, offence has been registered against the Appellant. Later on, Statement of the victim girl and other witnesses were 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 5 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 has already undergone about 19 months in jail, he is the only caretaker of his family, he has no criminal antecedents and he is facing the *lis* since 2017. Therefore, the jail sentence awarded to him may be reduced from 04 years to 03 years.

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 that the Appellant has already undergone about 19 months in jail, he has no criminal antecedents and he is facing the *lis* since 2017. 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 from 04 years to 03 years.
7. Consequently, the appeal is partly allowed. The conviction of the Appellants under Section 8 of the POCSO Act is affirmed and against the conviction he is sentenced to undergo to the period from 04 years to 03 years. The fine sentence for the above offence is also affirmed.
8. 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