

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 199 of 2009

- Kirtan Namdev, S/o Mohanlal Namdev, Aged About 21 Years, R/o Village Bhoring, Police Station Tumgaon, District Mahasamund, Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through Police Station Tumgaon, District Mahasamund, Chhattisgarh.

---- Respondent

For Appellant	:Mr. Manoj Paranjpe and Mr. Bharat Sharma, Advocates.
For State/Respondent	:Mr. HS Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

09.08.2021

1. This appeal has been preferred against the judgment dated 05.03.2009 passed in Sessions Trial No.07/2009 by the learned Sessions Judge, Mahasamund, Distt. Mahasamund(C.G.) wherein, the Appellant has been convicted for the offence punishable under Section 363 of the IPC and sentenced to undergo RI for 1 year and to pay fine of Rs. 1,000/-, with default stipulation.
2. According to the case of prosecution, on 22.12.2008 at 10:30 o'clock, the Appellant has kidnapped the victim girl from her lawful guardianship. The matter was reported by father of the

victim Osram Dhidhi (PW-1). On the basis of above, 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 under Sections 363 & 366 of the IPC. To robe the Appellant in the crime-in-question, the prosecution has examined as many as 10 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.

3. After completion of trial, Trial Court acquitted the Appellant for the offence punishable under Section 366 of the IPC. However, convicted and sentenced the Appellant as mentioned in Para 02 of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submit that they do not want to press this appeal on merits and confines their arguments to the sentence part only. They further submit that the Appellant has already undergone about 85 days in jail, at the time of alleged incident he was aged about only 21 years, he has no criminal antecedent and he is facing the *lis* since 2009. Therefore, the jail sentence awarded to him may be reduced to the period already undergone by him.
5. On the contrary, learned State Counsel opposed the appeal and supported the impugned judgment.

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 the fact that the Appellant has already undergone about 85 days in jail, he has no criminal antecedent and he is facing the *lis* since 2009. 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.
8. Consequently, the appeal is partly allowed. The conviction of the Appellant under Section 363 of the IPC 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.
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