

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 668 of 2020

1. State Of Chhattisgarh, Through Station House Officer, Police Station Khairagarh, Crime No. 173/17, District Rajnandgaon (C.G.).

---- Appellant

Versus

1. Raja Gayakwad S/o Moolchand Gayakwad, Aged About 20 Years, R/o Village Dilippur, Police Station Khairagarh, District Rajnandgaon (C.G.).

---- Respondent

For Appellant/State : Dr. (Ms.) Veena Nair, Dy. Advocate General.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

16/02/2021

- 1) Heard on I.A. No. 01 of 2020, application for condonation of delay in filing the appeal.
- 2) For reasons mentioned in the above application which is duly supported by an affidavit, the application is allowed and delay of 684 days in filing the appeal is condoned.
- 3) Also heard on admission.
- 4) This appeal has been filed by the State under Section **377** of Code of Criminal Procedure, 1973 against the judgment dated 28/07/2018 passed by the Additional Sessions Judge Khairagarh, District Rajnandgaon (C.G.) in Special S.T. No. 07/17 seeking enhancement of sentence imposed upon the respondent/accused under Sections 354, 354(A)(i)(ii), 354(B) of IPC and under Section 7 & 8 of POCSO Act.

- 5) Learned counsel for the State submits that the Trial Court has not adequately sentenced the accused for the offence under Section 354 of IPC and under Sections 7 & 8 of POCSO Act. She submits that looking to the act of the accused, the manner in which he subjected the minor prosecutrix to sexual assault as well as the object of enactment of the POCSO Act, the sentence awarded to the accused by the Trial Court is not commensurate with the gravity of the offence and the same needs to be enhanced suitably.
- 6) Considering the facts and circumstances of the case, the age of the accused i.e. 20 years, the accused is the first offender, the minimum sentence provided under Section 354 of IPC is 1 year, under Section 354(A)(i)(ii) the maximum sentence is 3 years or with fine or with both, under Section 354(B) the minimum sentence is 3 years and under Section 8 of POCSO the minimum sentence prescribed is 3 years, this Court is of the opinion that the sentence imposed upon the accused by the Trial Court for the aforesaid offences cannot be said to be inadequate warranting enhancement by this Court. Accordingly, the criminal appeal filed by the State being without any substance is hereby **dismissed** at the admission stage itself.

-Sd/-
(Gautam Chourdiya)
Judge