

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
CRA No. 983 of 2018

- Manoj Dheewar S/o Sundar Lal Aged About 20 Years R/o Village Rinwa, Police Station Mandir Hasoud, District Raipur Chhattisgarh.

---- Appellant

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station Arang, District Raipur Chhattisgarh.

---- Respondent

For Appellant	:Mr. Pawan Kesharwani, Advocate.
For State/Respondent	:Mr. H.S. Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

23.06.2021

1. With the consent of learned Counsel appearing for the parties, the matter is heard finally.
2. This appeal has been preferred against the judgment dated 27.06.2018 passed in Special Criminal Case No.108/2017 by the learned 7th Additional Sessions Judge, Raipur (C.G.) wherein, the Appellant has been convicted for the offence punishable under Section 363 of the IPC and sentenced to undergo RI for 2 years and to pay fine of Rs. 500/-, with default stipulation.
3. According to the case of prosecution, at the relevant time, age of the prosecutrix was about 17 years. On 21.03.2017, father of the prosecutrix Baisakhu Yadav lodged a report in

concerned Police Station alleging therein that the Appellant on the pretext of marriage, abducted her minor daughter and taken her with him. On the basis of said report, offence has been registered against the Appellant. On 28.03.2017, the prosecutrix was recovered from the possession of the Appellant thereafter, her statement was recorded under Section 161 of Cr.P.C. On the basis her statement, FIR has been registered. Statement of other witnesses were also 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 16 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.

4. 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 since there was a love relationship between the Appellant and the prosecutrix, therefore, presently they both have performed marriage and one child has also born from their wedlock and they both have resided happily with each other. The Counsel

further submits that the Appellant was already undergone about 8 months in jail. He has no criminal antecedents and he is facing the *lis* since 2018. Therefore, the jail sentence awarded to the Appellant 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 that the Appellant is facing the *lis* since 2018, there is no criminal antecedents against him and the Appellant and the prosecutrix have performed marriage with each other. 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 offence punishable under Section 363 of the IPC is also affirmed.
9. It is reported that the Appellant is on bail. His bail bond is not

discharged at this stage and the same shall remain operative for a further period of six months in light of Section 437-A of the Cr.P.C.

10. 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