

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 872 of 2021**

- Mahendra Sai Painkra, S/o Late Shobhnath Sai Painkra Aged About 50 Years Resident of Kersai, Bhandartoli, Police Station Tapkara, District Jashpur, Chhattisgarh.

---- Appellant

Versus

- State of Chhattisgarh, Through The Station House Officer, Police Station Tapkara, District Jashpur, Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Harish Khuntiya, Advocate
For State/Respondent	:	Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****21/09/2021**

1. This appeal has been preferred against the judgment dated 30/07/2021 passed in Special Sessions Case No. 01/2020 by the Special Judge, Kunkuri, District Jashpur, (C.G.), whereby the appellant has been convicted under Sections 363 and 342 of the Indian Penal Code and sentenced to undergo R.I. for 2 years and to pay fine of Rs. 1000/- and R.I. for 1 year and fine of Rs.500/- respectively, with default stipulations. (Both sentences are directed to be run concurrently.)
2. According to case of the prosecution, on 03/01/2020, the mother of the victim/prosecutrix lodged a report alleging therein that on 02/01/2020 at about 12:00 hours, the victim was playing near hand-pump, but later

on, the victim was not seen, therefore, the complainant searched for the victim girl and she found that victim was inside the house of the appellant. On being asked, the victim informed that the appellant had taken her inside the house and removed her underwear. On the basis of the said report, offence has been registered. Statement of injured as well as other witnesses were recorded. After completion of investigation, a charge-sheet was filed against appellant under Sections 363, 342 and 376 (AB) read with Section 511 of the I.P.C. and Section 6 read with Section 18 of the POCSO Act. The trial Court framed the charges. As many as 14 prosecution witnesses have been examined. No defence witness has been examined. Statement of the appellant under Section 313 of the Cr.P.C has been recorded, wherein he has pleaded innocence and false implication.

3. After trial, the trial Court has convicted and sentenced the appellant as mentioned in paragraph one 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 the appellant has undergone about 1 ½ years out of total jail sentence of 2 years, he has no criminal antecedent, therefore, he prays that the jail sentence awarded to the appellant may be reduced to the period already undergone by him.
5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the

trial Court is just and proper and requires no interference.

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 out of total jail sentence of 2 years, the appellant has undergone about 1 ½ years, and there is no criminal antecedent against him, 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 the aforementioned Section is affirmed and he is sentenced to the period already undergone by him. The fine sentence is 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