

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 690 of 2014**

Surendra Chauhan S/o Makhan Chauhan, aged about 30 years R/o Village Ghighari, Police Station Dabhra, District Janjgir-Champa, at present R/o Village Pata, Police Station Tamnar, District Raigarh (C.G.)

---- Appellant**Versus**

State of Chhattisgarh, Through P.S. Tamnar, District Raigarh (C.G.).

---- Respondent

For Appellant	:	Mr. Ajay Kumar Pandey, Advocate
For Respondent	:	Mr. Ghanshyam Patel, Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**04/02/2021**

1. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 26/05/2014 passed in Sessions Trial No. 98/2013 by the Additional Sessions Judge (FTC), Raigarh whereby the Appellant has been convicted under Sections 376 (1) and 506-B of the IPC and sentenced to undergo RI for about 10 years with fine of Rs. 500/- and RI for 3 years with fine of Rs. 200/-, respectively, with default stipulations.
2. Facts of the case are that on 13/05/2013, the Prosecutrix was sleeping in the courtyard of her house. It is alleged that 12:15 in the night, the appellant entered into her house and forcibly took her to his house. Thereafter, the appellant forcibly committed sexual intercourse with her. The matter was reported by the Prosecutrix and on that basis,

offence has been registered. Statements of Prosecutrix and other witnesses were recorded under Section 161 of the Cr.P.C. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges. Statement of the appellant was recorded under Section 313 of the Cr.P.C, wherein he has pleaded his innocence and false implication in the matter. No defence witness has been examined.

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 incident is of the year 2013 and the appellant is in jail since 16/05/2013. Meaning thereby, he has already undergone about 7 ½ years, he has no criminal antecedent and he is facing the *lis* since 2013, therefore, the sentence awarded to him 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 10 years, the Appellant has undergone 7 ½ months, he is facing the *lis* since 2013

and there is no criminal antecedent against them, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the jail sentenced 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 sections is affirmed and he is sentenced to the period already undergone by him. The fine sentence is affirmed.
9. It is reported that the Appellant is in jail. He be released forthwith, if not required in any other case.
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