

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Appeal No. 1856 of 2017**

- State of Chhattisgarh Through- Out post Lodam, Police Station Jashpur, District Jashpur (C.G.)

---- Appellant/State

**Versus**

- Balvir, S/o Vijay Singh, Aged about 21 years, R/o Village Kodopara, Nanesar, P.S. Sanna, District Jashpur (C.G.)

----Respondent

|                     |   |                                             |
|---------------------|---|---------------------------------------------|
| For Appellant/State | : | She Anand Verma, Deputy Government Advocate |
| For Respondent      | : | Shri Manoj Kumar Mishra, Advocate           |

**Hon'ble Shri Justice Gautam Chourdiya, J****Judgment on Board****21.10.2021**

1. Heard on admission.
2. This criminal appeal has been preferred by the State/appellant against the inadequacy of sentence passed by the Court of Special Judge, under Section 14 of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989, Jashpur, District Jashpur (C.G.) in Special Sessions Trial No. 01/2017 vide judgment dated 24.07.2017 whereby the Special Judge convicted the accused/respondent for the offence punishable under Section 354 A (i) of IPC and acquitted of the charge under Section 3 (1) (w) (i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act.
3. Learned counsel for the State/appellant submits that the accused/respondent was wrongly acquitted by the trial Court of the charge under Section 3 (1) (w) (i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act on the face of evidence available on record. Therefore, the impugned judgment is liable to be modified and the respondent be convicted under Section 3 (1) (w) (i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act and sentenced suitably.

4. Learned counsel for the accused/respondent submits that in this case looking to the age of the respondent i.e. 21 years at the time of incident, he has no criminal antecedents, the trial Court has rightly convicted and sentenced the respondent for the offence under Section 354 A (i) of IPC. Prosecution has failed to prove that the prosecutrix belongs to the scheduled tribe or scheduled caste community and the trial Court has rightly acquitted the respondent of the charge under Section 3 (1) (w) (I) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act, therefore, there is no substance in this appeal.
5. It is true that prosecution has failed to prove that the prosecutrix is of scheduled tribe or scheduled caste community. Looking to the age of the respondent i.e. 21 years, he has no criminal antecedents, he is the first offender, nature of offence, the respondent is convicted under Section 354 A (i) of IPC and sentenced to undergo R.I. for seven months with default sentence of fine by the trial Court. Being so, conviction and sentence of the accused/respondent under Section 354 A (i) of IPC awarded by the trial Court appears to be just and proper warranting no interference by this Court and he has been rightly acquitted of the charge under Section 3 (1) (w) (i) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act.
6. Consequently, the appeal being devoid of substance deserves to be and is hereby dismissed at the admission stage.

Sd/-

**(Gautam Chourdiya)**  
Judge