

(2021) 08 CHH CK 0020
In the Chhattisgarh High Court
Case No : Criminal Appeal No. 327 Of 2020

Premal Sarthi

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

Date of Decision : 02-08-2021

Acts Referred:

Indian Penal Code, 1860 — Section 34, 294, 323, 354, 506II

Code Of Criminal Procedure, 1973 — Section 161, 313

Protection of Children from Sexual Offences (POCSO) Act, 2012 — Section 7, 8

Citation : (2021) 08 CHH CK 0020

Hon'ble Judges : Arvind Singh Chandel, J

Bench : Single Bench

Advocate : Sumit Shrivastava, HS Ahluwalia

Final Decision : Partly Allowed

Judgement

1. This appeal has been preferred against the judgment dated 27.01.2020 passed in Special Criminal Case (POCSO) No.04/2017 by the learned

Special Judge (POCSO Act 2012), Bilaspur, Distt. Bilaspur(C.G.) wherein, the Appellant has been convicted for the offence punishable under Section

323 of the IPC and sentenced to undergo RI for 3 months and to pay fine of Rs. 1,000/-, with default stipulation.

2. According to the case of prosecution, complainant Pritam Das lodged a report in Police Station Sipat with the averment that on the date of incident

i.e. 12.12.2016, one cow entered in his house and her daughter was trying to get out that cow from their house meanwhile, she was abusing the cow

at that juncture the Appellant said why she is abusing him and started beating her daughter by hands due to that she sustained injuries on her body. On

the basis of above, the matter was reported and offence has been registered against the Appellant. Later on statements of witnesses 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

under Sections 354, 323, 294, 506 Part II of the IPC and Sections 7/8 of the POCSO Act. To robe the Appellant in the crime-in-question, the

prosecution has examined as many as 15 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.

3. 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 out of 3 months of jail sentence, the Appellant has already undergone about 25 days in jail, he has no

criminal antecedent and he is facing the lis since 2016. 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 the fact that out of 3 months of jail sentence, the Appellant has

already undergone about 25 days in jail, he has no criminal antecedent and he is facing the lis since 2016. 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 323 of the IPC is affirmed and against the conviction, he

is sentenced to the period already undergone by him. The fine sentence for the above offence is also affirmed.

9. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.