



2026:CGHC:9733



2026:CGHC:9733

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1051 of 2018

Pramod Thakur S/o Durga Thakur Aged About 21 Years R/o Village
Bakal, Police Station Lalbagh, District Rajnandgaon Chhattisgarh,
District : Rajnandgaon, Chhattisgarh

... Appellant

versus

State Of Chhattisgarh Through The Station House Officer, Police
Station Lalbagh, District Rajnandgaon Chhattisgarh, District :
Rajnandgaon, Chhattisgarh

... Respondent(s)

For Appellant : Mr. Deepak Diwakar on behalf of Mr. Abhishek
Sharma, Advocate

For Respondent(s) : Mr. Rajkumar Sahu, Panel Lawyer

Hon'ble Shri Justice Arvind Kumar Verma

Judgment on Board

24/02/2026

1. This criminal appeal has been filed under Section 374 (2) of Cr.P.C., 1973 by the appellant against the judgment of conviction and order of sentence dated 02.06.2018 passed by the learned Additional Sessions Judge (FTC) Rajnandgaon (C.G.), in Special



Criminal Case (POCSO) No. 01/2017, whereby the appellant has been convicted and sentenced as follows:-

Convicted	Sentenced to
U/s 452 of IPC	R.I. for 2 years with fine of Rs. 500/-, in default of payment of fine, additional S.I. for 6 months.
u/s 323 of IPC	S.I. for 6 months and fine of Rs. 500/- and in default of fine, additional S.I. for 1 month.

2. The prosecution case in brief is that on 02.12.2016 at about 1:00 PM, the appellant entered the house of the prosecutrix and caught hold of her hand. On her raising alarm, her mother and grandmother reached the spot, upon which the appellant pushed the prosecutrix and fled away. On the basis of the report lodged by the prosecutrix, the police registered the offence and conducted investigation. During investigation, the investigating officer prepared the spot map, recorded the statements of witnesses, seized relevant documents regarding the age of the prosecutrix from the school records and got her medically examined. After completion of investigation, a charge-sheet was filed against the accused before the competent Court.
3. The learned Additional Sessions Judge (FTC) Rajnandgaon (C.G.), after appreciating oral and documentary evidence available on record vide judgment dated 02.06.2018, acquitted the appellant from Sections 354, 354-A of IPC and Section 8 of POCSO Act, 2012 and convicted the appellant for the offences under Sec-



tion 452 and 323 of IPC and sentenced him as mentioned in opening paragraph of this order.

4. The appellant was in jail from 04.12.2016 to 05.01.2017 (32 days) during trial and then from the date of judgment, i.e. 02.06.2018 to 20.07.2018 (48 days), in total 2 months 20 days.
5. Learned counsel for the appellant submitted that the conviction recorded by the Trial Court is not sustainable in law. It is argued that there are material contradictions in the statements of the prosecution witnesses and that there existed prior dispute between the families. It is further contended that the prosecution has failed to establish that the appellant entered the house after making preparation for causing hurt or assault, which is an essential ingredient of Section 452 IPC. It is therefore prayed that the conviction under Section 452 IPC be set aside or suitably modified. And since the appellant is facing criminal trial since 2016 and he has undergone more than 2 months and 20 days awarded by the trial Court There is also no previous criminal antecedents against the appellant. Therefore, the jail sentence awarded to the appellant may be reduced to the period already undergone by him.
6. On the other hand, learned counsel for the State supported the impugned judgment and submitted that the Trial Court has rightly appreciated the evidence on record and the conviction recorded against the appellant does not require any interference.



7. I have heard learned counsel for the parties, considered their rival submissions made hereinabove and also went through the records with utmost circumspection.
8. The point arises for determination in this appeal is "*Whether the conviction of the appellant under Section 452 IPC recorded by the Trial Court is justified on the basis of evidence available on record?*"
9. The prosecutrix (PW-3) has stated that the appellant came to her house and caught hold of her hand while she was lying inside the house. On her raising alarm, her mother and grandmother came to the spot and the appellant fled away.
10. The mother of the prosecutrix (PW-1) has also supported the prosecution case to the extent that the appellant had come to the house and caught hold of the prosecutrix.
11. From the evidence on record, it is apparent that there was some dispute between the families prior to the incident. Some witnesses have also admitted in cross-examination that there had been quarrels earlier on the same day.
12. In order to constitute an offence under Section 452 IPC, it must be proved that the accused committed house-trespass after making preparation for causing hurt, assault or wrongful restraint. The evidence available on record does not establish that the appellant had made any such preparation before entering the house. None



of the witnesses have stated that the appellant was carrying any weapon or had made preparation to cause hurt.

13. Thus, the essential ingredient required to constitute the offence under Section 452 IPC is not proved beyond reasonable doubt.
14. However, the evidence of the prosecutrix and other witnesses clearly establishes that the appellant had entered the house of the prosecutrix without permission and assaulted her by hands, thereby committing house-trespass.
15. Therefore, the act of the appellant clearly falls within the ambit of Section 451 IPC, which deals with house-trespass in order to commit an offence punishable with imprisonment. Accordingly, this Court is of the opinion that the conviction of the appellant under Section 452 IPC cannot be sustained and deserves to be modified to one under Section 451 IPC.
16. The conviction of the appellant under Section 452 IPC recorded by the Trial Court is set aside. Instead, the appellant is convicted under Section 451 IPC.
17. So far as the question of sentence is concerned, considering the nature of the incident, the facts and circumstances of the case, considering the fact that the appellant is facing criminal trial since 2016, considering the age of the appellant at present and the period already undergone by the appellant, i.e. approx 2 months and 20 days, this Court is of the opinion that in the interest of justice, the sentence imposed upon the appellant is reduced to the period



already undergone by him. However, fine imposed by trial Court is maintained.

18. With the aforesaid observations, the criminal appeal is **allowed in part**. The appellant is held guilty of committing offence under Section 451 of IPC and is convicted for the said offence. However, the sentence is reduced to the period already undergone by him. The appellant is reported to be on bail. Surety and personal bond earlier furnished at the time of suspension of sentence shall remain operative for a period of six months in view of the provisions of Section 437-A Cr.P.C.
19. Let a copy of this order and the original records be transmitted to the trial court concerned forthwith for necessary information and compliance.

Sd/-

(Arvind Kumar Verma)

Judge

Madhurima