

**HIGH COURT OF TRIPURA
AGARTALA**

Crl. Rev. P. 29 of 2023

Sri Sankar Das

---Petitioner(s)

Versus

The State of Tripura

---Respondent(s)

For Appellant(s)	:	Ms. V. Poddar, Advocate.
For Respondent(s)	:	Mr. Raju Datta, PP.
Date of hearing and date of judgment and order	:	24.07.2024
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment and Order (Oral)

Heard Ms. V. Poddar, learned counsel for the petitioner also heard Mr. Raju Datta, learned PP for the state-respondent.

[2] This is a petition under section 397(1) read with section 401 of the Code of Criminal Procedure, 1973, against the dismissal of appeal of the revision petitioner by Ld. Sessions Judge, Gomati Judicial District, Udaipur by the impugned Judgment and Order dated 08.05.2023, in connection with the case no. Crl.(A)13/2022, whereby and where under, Ld. Sessions Judge upheld the Judgment and Order of conviction and sentence dated 20.09.2022 passed by learned Chief Judicial magistrate, Gomati Judicial District, Udaipur in Case No. PRC(WP) 65 of 2020, sentencing the revision petitioner to suffer R.I for two years and to pay a fine of Rs- 5000/-(five thousand) only for having committed an offence punishable U/S-354 A (1) (i)(ii) of IPC and in default of payment of fine to suffer RI for 6 (six) months and further, the revision petitioner is sentenced to suffer RI for 1 (one) year and to pay a fine of Rupees- 1000/-(one thousand) only for having committed

an offence punishable under section 506 IPC and in default of payment of fine to suffer RI for 3 (three) months. Both the sentences shall run concurrently.

[3] The prosecution story in a nut shell is that on 24.1.2020 at about 1730 following the information given by the accused person to the complainant through her daughter to visit his house for some urgent work with his wife, the complainant went to his and on her arrival the accused person started scuffling with her in absence of his wife and also touched various parts of her body and thus outraged her modesty. When the complainant raised hue and cry, the FIR named accused person pressed her mouth and threatened with dire consequences if she disclosed about it to anybody. The complainant on returning home disclosed the incident to her sister-in-law and later on the following day i.e. on 25.01.2020 her sister-in-law disclosed about it to the husband of the complainant and the impugned complaint was filed.

[4] On receipt of the FIR the case was registered and WSI Ripita Bhattacharjee was endorsed with the investigation of this case, who on closure of investigation, having found a prima facie case established against accused person namely, Sri Sankar Das submitted charge sheet against him under Section 354(B)/506 IPC.4. On receipt of the charge sheet, cognizance of offence was taken and attendance of the accused person was procured, provision US 207 Cr.PC was complied with and thereafter having found prima facie materials against the accused person charge was framed US 354(A)/506 IPC and contents read over to him to which he pleaded not guilty and claimed to be tried

[5] The prosecution in order to prove its case examined as many as seven witnesses (details provided in the appendix following this judgment).

[6] The defence case on the other hand as it reveals from the trend of cross-examination of the prosecution witnesses is that of complete denial and the accused person during his examination US 313(1)(b) Cr.P.C denied all the allegations and

adduced evidence on their behalf in form of three witnesses including himself as defence witness.

[7] The learned trial court after examining the PWs and records has finally observed as follows:

“In the result, I find and hold that the convict namely Sankar Das is hereby sentenced to suffer RI for 2 (two) years and to pay a fine of Rs.5000/-(five thousand) only for having committed an offence punishable under section 354A(1)(i)&(ii) IPC and in default of payment of fine to suffer RI for 6 (six) months and further, the convict is sentenced to suffer RI for 1 (one) year and to pay a fine of Rs.1000/-(one thousand) only for having committed an offence punishable under section 506 IPC and in default of payment of fine to suffer R.I for 3 (three) months. Both the sentences shall run concurrently.

Fine money if realized shall be given to the victim as compensation.

The convict shall be released after suffering the sentence of imprisonment and on realization of the fine money or on suffering the imprisonment awarded in default of payment of fine.”

[8] Being aggrieved by the impugned order dated 20.09.2022, the petitioner-appellant has approached the appellate court for challenging the order and the appellate court after dealing with the facts and circumstances of the case has observed in the following manner:

“The appellant has failed to establish that the conviction and sentence declared by the Court of Ld. Chief Judicial Magistrate, Gomati Judicial District, Udaipur in PRC(WP) 65 of 2020 suffers from any incongruity or inconsistency and, therefore, the judgment passed by the Ld. Chief Judicial Magistrate, Gomati Judicial District, Udaipur on 20.09.2022 does not deserve any interference.

The order of conviction passed against the convict-appellant Sankar Das and the sentence imposed upon him is upheld and the appeal filed by Sankar Das is dismissed.

The instant case is accordingly disposed of on contest.

The appellant Sri Sankar Das is required to surrender before the Court of Ld. Chief Judicial Magistrate, Gomati District, Udaipur in connection with case No. PRC (WP) 65 of 2020 within 1(one) month from today to serve out his sentence.”

[9] Being aggrieved order of the appellate court dated 08.05.2023 the petitioner has approached this court by way of filing this revision petition for seeking the following relief(s):

(i) Admit the revision petition

- (ii) *Pass an order staying execution of the sentence passed by the Ld. Appellate Court and allow the petitioner to remain on previous bail till disposal of this revision petition;*
- (iii) *Call for the relevant records of the courts below;*
- (iv) *Notify the public prosecutor.*

[10] On the other hand, Mr. Raju Datta, learned PP appearing for the respondents has contended before this court that the impugned order dated 08.05.2023 as passed by the Court of the Sessions Judge, Gomati Judicial District, Udaipur is just and proper and needs no interference from this Court and hence the petition be dismissed.

[11] Having heard the learned counsel for the parties and also perusing the record, this court finds that the victim was called by the accused through a messenger stating that the wife of the accused has some urgent work with her. When she turned up, the wife of the accused was not present at that time. The accused asked the victim to wait and all on a sudden dragged the victim to his bed and started pressing her breast. He also removed the wearing saree and tried to establish sexual relation. PW-4, Smt. Shilpi Rani Das also corroborated the statement of the PW-3. PW-5, Smt. Sharmistha Bepari the daughter of the victim also deposed that the accused through window told her to ask her mother to go his house as his wife had some urgent talk with her mother. Following that her mother went to the house of the accused. After some time her mother returned crying. Her mother did not say anything to her. But on the following day, she came to know that the accused attempted to rape her mother.

[12] On the other hand, the DW-1, the accused has stated before the trial court that on previous day of filing the FIR, he had an altercation with the husband of the victim and there was slight scuffling between them. On the following day the case was lodged against him. He further stated that he has been falsely implicated in the case by the accused.

[13] Having considered the submission as advanced by the counsel for the parties and also after perusing the record, this court is of the opinion that in cases of

sexual offences the victim shall not feel comfortable to share the woes with people outside her family or comfort zone and it is highly improbable that in such case there will be independent witnesses available to support the prosecution case and as per the guidelines of the Hon'ble Supreme Court where the victim seem to be reliable there is no requirement to search for corroboration from independent witnesses.

[14] The instant offence appears to have been committed against the dignity and self respect of a woman. It is also apparent that the offence was committed by someone with whom the victim had previous good neighbourly relationship and also apparently the accused used to address her as aunt and obviously, the victim having bonafide faith had visited his house and had trusted his intentions and accepted his offer to sit in the house as he had some urgent talk but the convict appeared to have taken advantage of her trust and misbehaved with her trying to inflict injury upon her chastity and such kind of offenders if not punished adequately will set a bad example in the society which in turn might encourage miscreants of similar stature who take it as their pride to commit such atrocities. Therefore, considering the impact of such offenses in the society, this court is not inclined to have a lenient view towards the accused. But also upon considering the future aspect of the accused with regard to the responsibilities towards his wife and son, this court is of the view that the punishment as awarded by the learned trial court and which was subsequently upheld by the appellate court be reduced. It is apparent from the record that the accused herein has been sentenced to suffer two years of imprisonment for the offences proved against him. Now, as this court has expressed its mind with regard to the future aspect of the family members of the accused, sentencing the accused for one year would be sufficient. Though in no way is the court viewing the act of the accused compassionately and this Court is of the view that the convict-petitioner shall serve the term of his punishment behind the bar. Therefore, the impugned order dated 08.05.2023

of the appellate court punishing the convict-petitioner to suffer R.I for two years is hereby modified.

[15] Accordingly, this court directs that the accused be sentenced to suffer 1 (one) year and pay a fine of Rs- 5000/-(five thousand) only for having committed an offence punishable U/S-354 A (1) (i)(ii) of IPC and in default of payment of fine to suffer RI for 6 (six) months and further, the accused is sentenced to suffer RI for 1 (one) year and to pay a fine of Rupees- 1000/-(one thousand) only for having committed an offence punishable under section 506 IPC and in default of payment of fine to suffer RI for 3 (three) months. Both the sentences shall run concurrently.

[16] With the above observation and direction, the present criminal revision petition is allowed to the extent as indicated above.



JUDGE

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