

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 281 of 2007

- Jugari Bai, Aged about 35 years, W/o Santosh, R/o Village Baba Singauri, P.S. Bemetara, Distt- Durg (C.G.)

---- Applicant

Versus

1. State of Chhattisgarh, through : The Station House Officer, Police Station Bemetara, District Durg (C.G.).
2. Rakesh Puri, Aged about 44 years, S/o Gajanand Puri, R/o Village Baba Singhauri, P.S. Bemetara, Distt- Durg (C.G.)

--- Non-applicants

For Applicant	:	Shri P.P. Sahu, Advocate
For the State	:	Smt. Smita Ghai, Panel Lawyer.
For non-applicant No.2	:	Shri Arvind Kumar Dubey, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Justice Sanjay K. Agrawal

JUDGMENT ON BOARD

05/09/2016

1. This Criminal Revision has been filed by the prosecutrix challenging the judgement dated 23-11-2006 passed by the Additional Sessions Judge, Bemetara, District Durg in S.T. No.145 of 2006 whereby the accused has been acquitted of the charge of having committed offences punishable under Sections 376 (1), 450 and 323 of the IPC.
2. The prosecution story as reflected in the FIR is that on 4-2-2006 at about 5.00 A.M., when the prosecutrix was sleeping in her hut in village Baba Singauri, the accused entered her hut, forcibly undressed her and then committed rape on her. When the prosecutrix protested, he threatened to kill her and he also gave blows with a sharp edged weapon (Tangia). The prosecutrix

thereafter went to Police Station along with her brother and one Uttam Lodhi (not examined) and lodged the FIR. This FIR was lodged on 4-2-2006 at about 6.15 P.M. Thereafter, the prosecutrix was sent for medical examination on 6-2-2006. After her medical examination, investigation was done and a report was filed under Section 173 of the Cr.P.C. and the accused was charged for the offences punishable under Sections 376, 450 and 323 of IPC. After trial, the accused was acquitted of the charges framed against him. Hence, this revision.

3. At the outset, we may note that in revision petition the powers of the High Court are very limited. This Court normally interferes in revision when the judgement of the trial Court is perverse or based on no evidence or total misreading of the evidence. In a revision petition filed against acquittal, one has to remember that the presumption of innocence which attaches to every accused is re-enforced by the order of acquittal and therefore, the revisional Court would be very reluctant to interfere. Judicial review in exercise of revisional jurisdiction is not like an appeal and while exercising revisional powers if the view taken by the trial Court is a possible view, then the revisional Court does not interfere even if the view of the revisional Court is different to that of the trial Court. It is only if the view taken by the learned trial Court is so perverse that no reasonable man would come to that conclusion, then the revisional Court may interfere.

4. As far as the statement of the prosecutrix is concerned, she has fully supported the prosecution case. The law by now is well settled that conviction of an accused in a case of rape can be based solely upon the statement of the prosecutrix. No corroborative evidence is required. However, there is an important caveat that the statement of the prosecutrix should inspire confidence. In case, it does not inspire confidence, then learned trial Court may not rely upon the statement of the prosecutrix.
5. As far as the present case is concerned, the learned trial Court did not believe the statement of the prosecutrix on the following grounds:
 - (i) Whereas in the statement made in Court, the prosecutrix has stated that the accused threatened to kill/ injure her in case she raised alarm, no such thing has stated in the FIR or in the statement recorded under Section 161 CrPC;
 - (ii) Whereas in the Court the witness has stated that the accused gave her blows with Tangia (small axe) from sharp edge of the axe, this fact does not find mention in the FIR or in the statement recorded under Section 161 CrPC.
 - (iii) Whereas the prosecutrix stated that three injuries on her person were caused by sharp edged weapon, the opinion of the Doctor is that the three injuries which are in the nature of

abrasions cannot be caused by a sharp edged weapon and could have been caused only by hard and blunt object;

(iv) In a case of rape, if a woman is threatened and the rapist threatens to kill her or cause injuries to her, these facts would normally have been told by the prosecutrix to the Police.

(v) The next ground which weighed with the learned trial Court is that the Doctor, who conducted examination of the prosecutrix on 6.2.2006 at about 11: 00 AM opined that all the injuries are of 1 - 2 days old meaning thereby that the injuries were 24 – 48 hours old. The occurrence allegedly had taken place at 5:00 AM on 4.2.2006 and this would mean that the age of the injuries would be 54 hours.

(vi) The prosecution had given no explanation why the prosecutrix was got medically examined on 6.2.2006 whereas she had lodged the complaint on 4.2.2006 itself.

(vii) There was a history of previous enmity between the parties.

6. There are other factors taken into consideration, but we do not believe that those are relevant factors. However, on perusal of the factors stated hereinabove, which have been taken into consideration by the trial Court, it cannot be said that the order of the trial Court is arbitrary or is an unreasonable order. Merely because we may take a different view is not a ground to set aside the order of the trial Court acquitting the accused. The view taken

by the trial Court is definitely a possible view and cannot be said to be a totally unreasonable view.

7. In this view of the matter, we feel that we should not exercise our revisional jurisdiction. The revision petition is dismissed.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(Sanjay K. Agrawal)
JUDGE