

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.377 of 2017

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Md. Farooque Son of Late Sk. Jalil, resident of Village Kasaila Madanpur
P.S. Araria (Madanpur), District Araria.

.... Petitioner/s

Versus

The State of Bihar.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Anil Prasad Singh, Advocate

For the Respondent/s : Mr. R.B. Roy, Raman, APP

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI

SHARAN SINGH

ORAL ORDER

- 3 18-07-2017 The sole petitioner is aggrieved by the judgment and order dated 31.01.2017 passed in Criminal Appeal No. 53 of 2013 by learned 2nd Additional Sessions Judge, Araria whereby he has upheld the conviction of the petitioner under section 354 of the Indian Penal Code, of offence under Section 341 and 447 of the Indian Penal Code recorded by the learned Judicial Magistrate 1st class, Araria in Trial No. 170 of 2013, arising out of Araria (Madanpur) P.S. Case No. 499 of 2008. The trial Court after convicting the petitioner of the aforesaid offence, had awarded sentence of imprisonment for a term of 2 years with a fine of Rs.1,000/- for the offence punishable under section 354 of the Indian Penal Code, 1 month imprisonment and fine of Rs.200/- for the offence punishable under section 341 of the Indian Penal



Code and 2 months imprisonment and fine of Rs.300/- for the offence under section 447 of the Indian Penal Code.

The learned Appellate Court, while affirming the conviction recorded by the trial Court, has modified the sentence of imprisonment for the offence punishable under section 354 of the Indian Penal Code from 2 years to 1 year and fine, for the said offence, has been reduced by the Appellate Court from Rs. 1,000/- to Rs.500/-.

Assailing the impugned judgment and order, the learned counsel appearing on behalf of the petitioner has submitted that the prosecution could not establish motive and intent of petitioner at the trial for establishing the charge under section 354 of the Indian Penal Code.

According to him, it is evident from the evidence of prosecution witnesses that there was a civil dispute between the parties and there was fight between them over planting of bush etc. over the piece of land. There was exchange of hot words and altercation between them which resulted into quarrel. In that situation, he submits that conviction for commission of offence under section 354 of the Indian Penal Code itself was improper. He has submitted that there is no evidence on record to show that the petitioner had any intention to outrage the modesty of the



informant.

The case of the prosecution, in nut shell, is that when the informant was sitting near the door of her house, the petitioner and his wife Bibi Farana came there and started assaulting her. When the husband of the informant came there, they also assaulted him by fists, slaps and lathi. The accused Bibi Farana is said to have snatched silver chain of the informant. The petitioner is said to have torn the sari of the informant, and thereby outraged her modesty.

I find substance in the submission made on behalf of the petitioner, on the basis of evidence led at the trial and other materials on record, that no offence under section 354 of the Indian Penal Code can be said to be proved beyond doubt.

Learned counsel for the petitioner is correct in his submission that intention must be proved for commission of an offence under section 354 of the Indian Penal Code to be established.

Such offence can be said to be completed only when a person assaults or uses criminal force to any woman, intending to outrage her modesty or knows that such act will outrage the modesty of the woman.

However, in my view, finding recorded by the Court



below of petitioner's conviction under sections 341 and 447 of the Indian Penal Code do not require interference as said findings cannot be said to be without evidence or contrary to the evidence led at the trial.

Considering, however, the mitigating circumstance and genesis of occurrence, the sentence of imprisonment of 2 months for the offence under section 447 of the Indian Penal Code and 1 month for the offence under section 341 of the Indian Penal Code is modified to the period of custody which the petitioner has already undergone after his conviction was affirmed by the learned Appellate Court.

Accordingly this application stands disposed of.

(Chakradhari Sharan Singh, J)

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