

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 852 of 2003**

Kartikram Kewat S/o Harichand, Aged about 45 years R/o P.S- Tamnar
Disst- Raigarh (C.G.)

---- Appellant

Versus

State of Chhattisgarh, through the SC & ST Police Station, District
Raigarh, Chhattisgarh.

---- Respondent

For the Appellant : Sudhir Verma, Advocate.
For the Respondent/ State: Shri Suryakant Mishra, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Judgment on Board

16.09.2017

Heard.

1. This appeal has been preferred against the judgment of conviction and order of sentence dated 21.07.2003 passed in Special Case No.21/2001 by Sessions Judge, Raigarh, convicting the appellant under Section 3(1)(x) & 3 (1) (xi) of the SC & ST (Prevention of Atrocities) Act, 1989 (for short 'the Act, 1989') and sentencing him to undergo RI for 6 months and to pay fine of Rs.500 and RI for 6 months and to pay fine of Rs.500 respectively. The appellant has also been convicted under Section 354 of IPC and sentenced to undergo R.I. for 6 months.
2. The facts of this case, in brief are these that 02.01.2001 at about 9:30 am the appellant abused the prosecutrix (PW-3) in the name of her caste and also by uttering other abusive words and thereafter the appellant used criminal force with intent to outrage the modesty of the

prosecutrix. FIR (EX. P3) was lodged on the same date and the offence under Sections 354 & 294 of IPC was registered. As complainant Tihari Bai (PW-3) was the member of Scheduled Tribes, the offence under Sections 3 (1) (xi) SC & ST Prevention of Atrocities Act was also added. On conclusion of investigation, the charge-sheet was filed against the appellant.

3. The appellant was charged with offences under Sections 294 and 354 of IPC alongwith Sections 3 (1) (x) and 3(1)(xi) of the Act, 1989. After affording opportunity of hearing to the prosecution and defence, the impugned judgment has been passed by the trial Court by which the appellant has been convicted and sentenced as mentioned above.
4. Grounds urged in this appeal are that appellant has been falsely implicated by the complainant and that prosecution failed to prove its case beyond reasonable doubt. Hence, the findings of conviction recorded against the appellant are bad in law, hence prayed that the appellant be acquitted of all the charges.
5. It is submitted by learned counsel for the appellant that complainant Tihari Bai (PW-3) had earlier also lodged a similar complaint against the appellant in respected of incident that took-place on 20.11.2000 alleging that appellant had outraged her modesty. The said case was tried before the JMFC, Dongergarh and vide judgment dated 04.07.2011 the appellant had been convicted and sentenced. After that this second report has been filed on 02.01.2001, which shows the ulterior motive of the complainant, as in these cases the complainant receives compensation from the State, because of which the complainant has been lodged FIR against the appellant.
6. Learned counsel for th State has opposed the submission so made

and submitted that prosecution has proved its case beyond reasonable doubt and there is no reason to interfere with the impugned judgment.

7. I have heard the learned counsel for the parties and perused all the documents placed on record.
8. The question before this Court is whether the judgment of conviction and order of sentence passed by the trial Court is sustainable?
9. Tihari Bai (PW-3) is the complainant, who stated that on 02.01.2001 in morning around 9:30, she had gone to the back side of her house to get the washed clothes dried. At that time the appellant came there from the back side and started abusing her with abusive words and using her caste name to insult her as she had lodged FIR against him and thereafter he forcibly caught hold of her and tried to outrage her modesty and when she shouted then Bhog Singh, Shridhar, and Khirmati arrived at the place of incident. She has further stated that she belongs to Sidar caste which comes within the category of Scheduled Tribes. In cross-examination she has denied that she has falsely implicated the appellant and also denied all the adverse suggestions given by counsel for the defence. Even otherwise this witness remain un-shakened in the cross-examination. Khirmati (PW-4), Shridhar (Pw-5) and Bhog Singh (PW-6) are the eye-witnesses who have stated that hearing the cries of the complainant, they reached the spot, and saw the appellant outraging the modesty of the complainant. In the cross-examination their statements remained un-rebutted. There is no need to consider the statement of rest of the witnesses.
10. As per statement of PW-3, the appellant made reference of the

previous FIR lodged by her against him while committing the offence for which he is charged. It is undeniable that appellant was charged and convicted in the case initiated on the previous FIR lodged by the complainant, but by this itself the subsequent report lodged by the complainant cannot be disbelieved. The allegations that complainant had ulterior motive for seeking compensation from the State is neither admitted nor established from evidence by the defence .

11. Another objection has been raised that the complainant (PW-3) has stated that she belonged to Sidar Scheduled Tribe, whereas the certificate proved by prosecution shows her to be of Bhaina community of Scheduled Tribes. As it is not disputed that complainant belongs to Scheduled Tribe, the difference of description of the community does not make any difference and this objection has no substance.
12. On the basis of reasons aforementioned and after closely scrutinizing the evidence on record, it is found that there is no illegality or infirmity in the impugned judgment warranting interference by this Court. Hence, this appeal is dismissed. The appellant is reported to be on bail. His bail bonds stand cancelled. He be taken into the custody forthwith and be sent back to the jail.

Sd /-

(Rajendra Chandra Singh Samant)
Judge