

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****ACQA No. 112 of 2009**

State of Chhattisgarh, through Station House Officer, Barlla, District , Durg (CG)

---- Appellant**Versus**

Kailash s/o Hiralal Satnami, aged about 32 years, Occupation : Cultivation, R/o Village Pattora, Thana, Berlla, District Durg (CG)

---- Respondent

For Appellant/State : Mr. Sanjeev Pandey, Govt. Advocate
For respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma
Judgment on Board

27/8/2018

1. This appeal is preferred under Section 378 (1) of the Code of Criminal Procedure, 1973 against the judgment dated 26.12.2003, passed by the Judicial Magistrate First Class, Bemetara, District Durg(CG) in Criminal Case No.55/99, wherein the said Court had acquitted the respondent of the charges under Sections 452, 354, 325, 323/34, 506(B) 504, 452 of the I.P.C. for commission of offence against Kanti Bai, Mokam Lal, Shriram, Onkar Prasad, Budharu and Lala.
2. Kanti Bai (PW1) deposed that one Kailash assaulted her by hands. Version of this witness is contrary to her statement recorded under Section 161 Cr.P.C. In her previous statement she has stated that

Kailash tried to undress her and pulled her Saree, but before the trial Court she narrated different story.

3. Uttam Kumar (PW2) deposed that Kailash caught hold hand of Kanti Bai and thereafter assaulted her but his statement under Section 161 Cr.P.C. is not recorded and defence side has no opportunity to contradict his statement if it had been recorded under Section 161 Cr.P.C.
4. Budharu Ram (PW4) deposed that one Gokaran assaulted him with club but the said Gokaran has died and therefore, evidence against him cannot be used for deciding the issues.
5. Lala (PW5) deposed that Gokaran assaulted him by club on his back, but his evidence is also not against the present respondent.
6. Onkar (PW10) and Shriram (PW11) have not supported the version of prosecution and as per their evidence, they are unable to see the incident and that is why leading questions were put to them by prosecution side but nothing could be elicited against the present respondent.
7. Mokam Lal (PW12) deposed that Gokaran and present respondent were running after Kanti Bai, but version of this witness is contradicted by the version of Kanti bai.
8. As from the evidence adduced by the prosecution, it is not clear that the respondent had threatened anyone with determination to execute the threat on the spot. Version of this witness is contradictory on this count.
9. The trial Court had evaluated the evidence in its entirety and same is

neither perverse nor it is beyond record. On overall assessment of the evidence on record, it is not a fit case where interference of this Court is required.

10. Accordingly, the appeal is liable to be and is hereby dismissed.

Sd/
(Ram Prasanna Sharma)
Judge

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