

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 572 of 2002

- Pusau Ram, S/o. Purru Ram Sahu,, Aged about 50 years,
Occupation Labour, Resident of Jamgaon,

---- Appellant

Versus

- State Of Chhattisgarh

---- Respondent

For Appellant	: Shri Pushpendra Patel, Advocate
For Respondent	: Shri Adil Minhaj, P.L.

Hon'ble Shri Justice Pritinker Diwaker

Judgement on Board

02/04/2018

This appeal arises out of the judgment and order dated 14.05.02 passed by Special Judge & Additional Sessions Judge, Durg in Special Case No. 68/2001 convicting the accused/appellant under Section 354 IPC and sentencing him to undergo RI for six months with fine of Rs. 2,000/- with default stipulation.

2. As per prosecution case, on 12.04.2001 FIR Ex.P-1 was lodged by prosecutrix (PW-2) aged about 20 years alleging that a day before thereto i.e. 11.04.2001 she had gone to the house of appellant to work as labor and taking the advantage of her loneliness accused/appellant caught hold of her hand and made an attempt to take inside the house with intention to outrage her modesty. She has stated that the act has

been done by the appellant knowing fully well that she belongs to Halba/Scheduled Tribe. Based on this FIR, offence under Section 354 IPC and 3(1)(xi) of the SC/ST (Prevention of Atrocities Act) was registered against the appellant. Prosecutrix was medically examined by Dr. Smt. P. Baghel (PW-4) vide Ex. P-6 and she had not found any injury on her body. After filing of the charge sheet, trial judge has framed charge under Section 354 IPC and Section 3 (1)(xi) of the SC/ST (Prevention of Atrocities) Act.

3. So as to hold the accused/appellant guilty, the prosecution has examined 9 witnesses. Statement of the accused was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded his innocence and false implication in the case.

4. By the judgment impugned the Court below has acquitted the appellant under Section 3(1)(xi) of the SC/ST (Prevention of Atrocities Act) but has convicted and sentenced him under Section 354 IPC as mentioned above. Hence this appeal.

5. Contention of counsel for the appellant is that the appellant is not pressing this appeal on merits and would confine his argument to sentence part thereof only. He submits that the appellant has remained in jail for about 10 days and the incident occurred about 17 years back no useful purpose would be served in sending him to jail.

6. On the other hand, supporting the impugned judgment it has been argued by the State counsel that the conviction of the appellant is in accordance with law.

7. Prosecutrix (PW-02) has categorically stated that on the date of

incident when she had gone to the house of accused/appellant to work, taking advantage of her loneliness accused/appellant with an intention to outrage her modesty caught hold of her hand and made an attempt to take her inside the house with intention to outrage her modesty. In cross-examination she remained firm. Sawli Bai (PW-3) mother-in-law of the prosecutrix to whom the incident was narrated by the prosecutrix has not stated anything against the appellant and has turned hostile. Dr. Smt. P. Baghel (PW-4) has medically examined the prosecutrix but she has not found any injury on the person of the prosecutrix. D.S. Maravi (PW-8) is the Investigating Officer who has done the investigation.

8. Close scrutiny of the evidence makes it clear that on 11.04.01 when the prosecutrix had gone to the house of the appellant to work, taking the advantage of her loneliness he caught hold of her hand and made an attempt to take her inside the house with intention to outrage her modesty. There is no reason for this court to disbelieve the statement of the prosecutrix. The trial court was justified in convicting the appellant under Section 354 IPC.

9. Next question which arises for consideration before this Court is as to what would be the appropriate sentence to be imposed on the appellant. The incident had taken place about 17 years back, the appellant has already remained in jail for about 10 days, is now an old man must be aged about 60 years, ends of justice would be served if the sentence imposed on him is reduced to the period already undergone by him. Appellant, however would pay Rs. 3,000/- as compensation under Section 357 Cr.P.C. to the prosecutrix.

10. In the eventuality of depositing the said amount before the trial court within a period of six months from the date of receipt of copy of the judgment, the court below shall ensure for disbursing the amount so deposited to the prosecutrix.

11. In the result, the appeal is partly allowed.

Sd/-

(Pritinker Diwaker)
Judge