

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 602 of 2003

Order reserved on : 24.10.2018

Order passed on : 14.11. 2018

1. Dilip Kumar S/o Itwariram, Aged about 24 years.
 2. Premdas S/o Parakhram Satnami, Aged about 23 years,
- Both are R/o. Gram Sevti, Police Station Pulgaon, Tahsil and District Durg (C.G.)

---- Applicants

Versus

State of Chhattisgarh

---- Respondent

For Applicants : Mr. Rahil Arun Kochar, Advocate
For Respondent : Ms. M. Asha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V. Judgment

1. This revision is directed against the judgment dated 06.12.2003 passed by the Additional Sessions Judge Durg in Criminal Appeal No. 272 of 2002, affirming the judgment of conviction and order of sentence dated 15.07.2002 passed by the Judicial Magistrate First Class, Durg, in Criminal Case No. 96/2002, convicting the accused/applicants under sections 341 and 354 IPC and sentencing them to undergo rigorous imprisonment for 1 month u/s 341 and rigorous imprisonment

for 1 year and pay fine of Rs. 1000/- each u/s. 354 IPC with default stipulations.

2. Case of the prosecution, in brief, is that on 17.05.1998 at about 7.30 PM, when prosecutrix (PW-1) and her niece (PW-2) were returning after answering the call of nature, the applicants caught their hold and dragged (PW-1) to an isolated place with an intention to outrage her modesty. (PW-2) however, ran away from their hold and informed the incident to her relatives and villagers. FIR (Ex.P-3) was lodged by Nirmal Das (PW-3) for the offences under Sections 354/34 IPC which ultimately resulted in challan being filed.

3. Having taken note of the material on record the Trial Court convicted and sentenced the applicants as mentioned above which subsequently has been affirmed by the lower appellate Court by the judgment impugned. Hence, this revision.

4. Learned Counsel appearing for the applicants submits that he is not pressing this revision on merit and confining his argument to the sentence part thereof only. According to him, as the incident had taken place in the year 1998 and that they have already remained in jail for a period of 12 days, no useful purpose would be served in again sending them to jail, and therefore, the sentence imposed upon them may be reduced to the period already undergone by them.

5. State counsel however, supports the findings recorded by the both the Courts below.

6. I have heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

7. Though there is prayer only in respect of sentence part of the judgment impugned, this Court is required to deal with the conviction part thereof as well on merit.

8. From the evidence of prosecutrix (PW-1) and her niece (PW-2) it is manifest that on the date of incident when they were getting back after easing themselves, the accused/applicants met them on the way, took PW-1 to the thrashing field, and tried to outrage her modesty. PW-2, however, succeeded in making herself free from the clutches of the accused/applicants and disclosed happening to the villagers she came across. PW-4 who at the relevant time was present in the filed has also supported the case of the prosecution stating that when he was busy in his agricultural work, PW-2 came to him and disclosed the act of the accused/applicants. On this, when he went to the place of occurrence, prosecutrix (PW-1) was found stripped off and her cloths were in complete disarray. Seizure of lady footwear, one locket and string used for tying the underwear made under Ex.P-4, as well as a worn and torn *salwar* and underwear seized under Ex.P-1 also supports the case of the prosecution. The evidence thus clearly spells out that the accused/applicants put wrongful restraint on the prosecutrix and her niece when they were returning from the filed after easing themselves. Seizure made

under Ex.P-1 and Ex.P-4 also supports the case of the prosecution that the accused/applicants tried to outrage the modesty of PW-1. Luckily, PW-2 could get rid of them and PW-1 too was fortunate enough to resist the further act of the accused/applicants.

9. Thus, in view of the factual discussion made above in the light of the evidence of the witnesses, this Court is of the opinion that both the Courts below have been quite justified in holding the accused/applicants guilty under sections 341 and 354 IPC and being so, the same is hereby maintained.

10. As regards sentence, keeping in view the fact that the incident had taken place about 20 years back and by now the applicants must be leading a well settled life bearing the burden of their responsibilities, this Court is of the opinion that it would be in the interest of justice to reduce the sentence to the period already undergone by them. In lieu of this, the applicants however, would be required to pay an enhanced sum of fine of Rs. 5000/- each from that of Rs. 1000/- each. Let this amount be deposited by the accused/applicants in the trial Court within a period of three months from today.

11. Resultantly, the revision is hereby allowed in part with the modification in the judgment impugned as above.

Sd/-

(Vimla Singh Kapoor)

JUDGE

Jyotishi/Santosh