

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 393 of 2008

- 1. Bhanwar Singh, Aged about 26 years,
 - 2. Supet Singh, Aged about 31 years, S/o. Dalluram
- Both are resident of village Dumdum, P.S. Pendra, District Bilaspur (C.G.)

---- Applicants

Versus

State Of Chhattisgarh, Through Police Station Pendra, District Bilaspur (C.G.)

---- Respondent

For Applicant : Mr. Abhishek Pandey, Advocate
For Respondent : Mr. Gary Mukhopadhyay, Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

19.11.2018

1. This revision is directed against the judgment dated 06.05.2008 passed by the Additional Sessions Judge Pendraroad, District Bilaspur in Criminal Appeal No. 29 of 2008, affirming the judgment of conviction and order of sentence dated 30.01.2008 passed by the Judicial Magistrate, First Class, Pendraraod, in Criminal Case No. 908/2005, convicting and sentencing the accused/applicants as under:-

Applicant	Conviction	Sentence
Bhanwar Singh	457IPC	RI for six months with fine of Rs. 50/-

	354 IPC	RI for six months
Supet Singh	457/34 IPC	RI for six months with fine of Rs. 50/-
	354/34 IPC	RI for six months
		All the sentences are coupled with default clause also.

2. Facts of the case, in short, are that on 04.11.2005 when prosecutrix (PW-1) was sleeping in her house, at about 12 midnight, accused/ applicant Supet Ram barged into her house by pushing open the door and held her limbs and breasts. After waking up when she tried to get rid of him, the other accused/applicant Bhanwar Singh also caught hold of her hand and when she tried to free herself of his clutches, the bangles worn by her got broken and she suffered scratch injuries on her neck. On hearing her cries, Loknath (PW-2) and one Raju (PW-6) came there and saw the accused/applicants. Subsequently, she lodged the report on the basis of which offence under Sections 456 and 354/34 IPC were registered against them and charge sheet was laid accordingly.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicants under Section Sections 457, 354/34 IPC. The findings recorded by the trial Court have subsequently been confirmed by the lower appellate court by the judgment impugned and it is that which is under challenge in this revision.

4. Counsel for the accused/applicants submits that both the Courts below have fallen in a serious error in convicting the

accused/applicants under Sections 457, 354/34 IPC and that the findings so recorded are contrary to the evidence led by the prosecution. He further submits that as the prosecution could not prove its case beyond reasonable doubt, the judgment impugned is liable to be set aside.

5. On the other hand, counsel for the respondent/State supports the judgment impugned and submits that the findings recorded by the both the Courts below convicting and sentencing the accused/applicants as shown above, are strictly in accordance with law and there is no infirmity in the same.

6. Heard counsel for the parties and perused the evidence on record.

7. Prosecutrix (PW-1) has stated that on the date of incident when she was sleeping in her house, accused Supet Singh gained an entry in her house in the midnight and caught her hand and breasts. When she raised her cries, two persons of the locality namely Raju and Chhotaiya came there to whom she narrated the entire incident and it is after being alerted, the accused/applicants had left her. She has reiterated that the accused Supert Singh had caught hold of her hand and breasts in order to outrage her modesty. She has further stated that when she was getting out of the house, another accused Bhanwar Singh also caught hold of her, as a result of which the bangles worn by her got broken, she suffered injury on her neck and then her medical examination took place. In cross-examination also

she has stated the same thing as in the examination-in-chief. Loknath (PW-2) has also supported the case of the prosecution stating that while retuning after answering the call of nature, he heard the cries of prosecutrix (PW-1) and when he entered her house he saw accused Supet Singh pressing her neck and on being scolded aloud he left her. Other accused also pounced on her, is also the version of this witness. Dr Devendra Singh Painkra (PW-3) who examined the prosecutrix and gave his report Ex.P-3 has stated that he noticed an abrasion in the right wrist of the prosecutrix and she was also complaining pain in her neck. Such injuries, according to this witness, could have been caused by coming into contact with shrubs.

8. Thus, the evidence clearly suggest that on the fateful night the accused/applicants, taking undue advantage of her haplessness being alone in the house, committed a house trespass and outraged her modesty. Version of the prosecutrix (PW-1) is also corroborated by the evidence of PW-2 and the doctor (PW-3) who medically examined her. Being so, this Court of the opinion that both the Courts below have been quite justified in holding the accused/applicants guilty under Sections 457, 354/34 IPC and therefore, the same is hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place about 13 years back, that the applicants have already remained in detention for about one and half month 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.

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

Sd/-
(Vimla Singh Kapoor)
JUDGE

Jyotishi/Santosh