

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 316 of 2015**

Muniram Patel S/o Fulel Patel, aged about 52 years, R/o Village Majgaon, Police Station Kawardha, Civil & Revenue Distt. Kabirdham (C.G.).

--- Applicant

Versus

State of Chhattisgarh, Through: District Magistrate Kabirdham, Distt. Kabirdham (C.G.).

---- Respondent

For Applicant	:	Mr. Ajit Singh, Advocate
For Respondent	:	Ms. Smita Ghai, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

31/10/2018

1. This revision has been preferred against the judgment dated 17/03/2015 passed by the Additional Sessions Judge, Kabirdham (Kawardha) (C.G.) in Criminal Appeal No. 65/2014, whereby the Additional Sessions Judge has affirmed the judgment of conviction and sentenced dated 27/09/2014 passed by the Chief Judicial Magistrate, Kawardha in Criminal Case No. 847/2011 convicting the applicant under Sections 294, 451 & 354 of the IPC and sentenced him to undergo RI for 16 days with fine of Rs. 1000/-, RI for 16 days with fine of Rs. 1000/- & RI for 16 days with fine of Rs. 1000/-, respectively.
2. As per prosecution story, on 22/08/2011 at about 9:30 pm, the applicant entered into the house of the prosecutrix (PW1), a married lady. It is alleged that the applicant caught hold her hand and breast with an intention to outrage her modesty. When the prosecutrix

shouted, the applicant abused her and also threatened her. A report was made in this regard. On the basis of said report, offence has been registered. After investigation, a charge-sheet has been filed under Section 456, 354, 294 & 506 of the IPC. Charges were framed. To prove the guilt of the applicant, the prosecution has examined as many as 10 witnesses.

3. After trial, the learned Chief Judicial Magistrate acquitted the applicant from the charge framed under Section 506 of the IPC and convicted him under Sections 294, 354 and 451 of the IPC and sentenced him as mentioned in the first paragraph of this order, which was also affirmed by the Appellate Court. Hence, this revision.
4. Learned counsel for the applicant submits that both the Courts below have failed to appreciate that the prosecution has not succeeded to prove its case beyond reasonable doubt. The statement of prosecutrix is not reliable. Other witnesses have not corroborated the statement of the prosecutrix. There are material contradictions and omissions in the statement of the prosecutrix, therefore, only on the basis of her statement, the applicant cannot be convicted. The applicant is liable to get benefit of doubt. He further submits that if it is held that the offence is made out against the Applicant, since he is a government servant, the conviction will affect his service career and, therefore, he prays that if the judgment of conviction and sentence is affirmed, it may be observed that the same shall not affect his career in Government service. Reliance has been placed on **(2016) 2 MPLJ 652 (Hanumant Singh v. State of Madhya Pradesh)** and **(1985) SCC (Cri) 445 (Rajbir v. State of Haryana)**.

5. Learned counsel appearing on behalf of the State supported the impugned judgment of conviction and sentence.
6. I have heard learned counsel for the parties and perused the records of the Courts below.
7. In support of its case, the prosecution has examined as many as 10 witnesses. The prosecutrix (PW1) has categorically stated in her court Statement that on the date of incident, the applicant entered into her house and caught hold her hand and breast. She further stated that at that time the applicant abused her. On her shout, when her husband and other persons came there then the applicant fled away from the spot. She remained firm during her cross examination. Her statement is duly corroborated by her husband Ram Singh (PW2), her son Gokul (PW4) and another son Bhanupratap (PW5).
8. Darwari (PW3) is an independent witness who also supported the prosecution case. Lekhram (PW8) has also stated that before him the applicant abused the prosecutrix and her husband.
9. From the above it is clear that the applicant has rightly been convicted by the Courts below under Sections 294, 354 & 451 of the IPC. Thus, the conviction of the applicant is affirmed. The sentence part also does not require any interference.
10. Since the applicant is a government servant, the conviction imposed upon him may affect his career in government service. The applicant is presently aged about 52 years. He is facing the *lis* since 2011 and has deposited the fine amount imposed upon him by the trial Court. Looking to the peculiar facts and circumstances, it is observed that the conviction imposed upon the applicant under Sections 294, 354 & 451

of the IPC shall not affect his career in Government service.

11. Consequently, the revision is disposed of in the aforesaid terms.
12. Records of the Courts below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul