

HIGH COURT OF CHHATTISGARH AT BILASPUR**Second Appeal No. 257 of 2008**

1. District Organizer, Tribal Welfare Department.
2. State of Chhattisgarh, Through Collector, Mahasamund, Chhattisgarh.

--- Appellants/Defendants**Versus**

Devaki Bai, Aged 10 years, D/o Shri Bheem Dhurve, Caste Gond,
R/o Near Railway Line, Mahasamund, Distt. Mahasamund,
Chhattisgarh.

---- Respondent/Plaintiff

For Appellants/Defendants/State : Mr. Ravi Bhagat, Deputy Government
Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****28/08/2019**

1. Heard on the question of admission and formulation of substantial question of law in this second appeal preferred by the defendants/State under Section 100 of the CPC.
2. Mr. Ravi Bhagat, learned deputy Government advocate would submit that first appellate Court is absolutely unjustified in granting compensation to the victim/plaintiff whose modesty has been said to be outraged by the accused, but which has been found established by the Criminal Court, as such, compensation of ₹ 50,000/- could not have been awarded to her, as the course available to the victim was to file an application under

Section 357 (3) or Section 357 A of the Cr.P.C. before the Criminal Court, therefore, it gives rise to substantial question of law for determination in this second appeal.

3. Plaintiff (juvenile) lodged a report stating that she has been subjected to rape by the accused person against whom offence punishable under Section 376 of the IPC and Section 3 (1) (XII) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 was registered by the jurisdictional police, Mahasamund and he was charge-sheeted before the juvenile Court, Raipur. Ultimately, on 27/10/1999, learned juvenile Court convicted the concerned accused for offence punishable under Section 354 of the IPC and imposed a fine of ₹ 5,000/- upon him, but that Court did not award any compensation to the plaintiff/victim as required under Section 357 (3) or Section 357 A of the Cr.P.C. Therefore, the plaintiff filed a civil suit for claiming compensation which was dismissed by the trial Court.
4. On appeal being preferred by the plaintiff, learned first appellate Court recorded a finding that plaintiff is a woman belonging to Scheduled Tribes and her modesty has been outraged by the accused person, therefore, she is entitled for compensation to the extent of ₹ 50,000/-. The said finding recorded by learned first appellate Court granting compensation to the extent of ₹ 50,000/- to the plaintiff, holding that she is a victim of offence under Section 354 of the IPC and therefore, is entitled for compensation, is a finding of fact based on evidence available on record, in which I do not find any perversity or illegality. Learned first appellate Court

has rightly exercised jurisdiction by granting compensation to the extent of ₹ 50,000/- to the plaintiff and it does not give rise to any substantial question for determination in this second appeal.

5. The second appeal deserves to be and is dismissed *in limine* without notice to the other side. No order as to cost(s).

**Sd/-
(Sanjay K. Agrawal)
Judge**

Harneet