

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 495 of 2009

Subhash Das S/o. Sitaram Das, Aged about 25 years, R/o. Village Jamgaon, Police Station and Tahsil Deobhog, District Raipur (C.G.)

---- Applicant

Versus

State of Chhattisgarh through the District Magistrate, District Raipur (C.G.)

---- Respondent

For Applicant : Ms. Mandwi Bhardwaj, Advocate on
behalf of Mr. Shivendu Pandya, Advocate
For Respondent : Mr. Himanshu Sharma, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 12.04.2019

On 24.09.2008 complainant Nilendri Bai (PW-1) lodged the FIR (Ex.P-1) in police station Deobhog, alleging in it that on the date i.e. on 24.09.2008, she was returning after answering the call of nature, when she reached near the house of Senmudin, then the applicant came there and with intention to outrage her modesty, caught hold the hands and breast, when she shouted, Senmudin and Malti Bai came there. The applicant fled away after seeing them to come there. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicant.

2. By the judgment dated 31.03.2009 learned trial Court convicted the accused/applicant under Section 354 IPC and sentenced him to undergo RI for 3 months and to pay fine of Rs. 500 with default stipulation, which on appeal has been affirmed by the judgment impugned. Hence, this revision.

3. Learned counsel for the applicant submits that the order impugned being contrary to the evidence on record is liable to be set aside. On the other hand, learned counsel for the State, however, supports the same.

4. I have heard learned counsel for the parties and perused the record.

5. Having gone through the material on record in particular the evidence of PW-1, PW-2, PW-3 and PW-5, clearly indicating the involvement the applicant in the crime in question where he is alleged to have forced himself and stopped the complainant on the way, when she was returning after answering call of nature, the applicant tried to outrage her modesty. Malti Bai (PW-2) has also supported the case of the prosecution. Thus, the evidence clearly suggest that on the fateful day the accused/applicant, entered the house of the prosecutrix (PW-1) and there he, tried to outrage her modesty. Being so, this Court of the opinion that both the Courts below have been quite justified in holding the accused/applicant guilty under Section 354 IPC and therefore, the same is hereby maintained.

6. As far as the sentence part of the judgment impugned is concerned, looking to the fact that the incident had taken place 11 years ago and the applicant has already remained in jail for a period of 26 days and deposited fine amount imposed on him, in my opinion, no useful purpose is going to be served in again sending him to jail. Accordingly, his sentence is reduced to the period already undergone by them. However, the sentence of fine under section 354 is enhanced from Rs. 500/- to Rs. 2500/-. Let this amount be deposited by the accused/applicant in the trial Court within a period of four months from today. Order accordingly.

7. With the above, the revision stands allowed in part

Sd/-

(Vimla Singh Kapoor)

JUDGE

Santosh