

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 701 of 2008

Banas yadav S/o. Tejai Yadav, Aged 45 years, R/o. Gram
Lakhanpur, Thana Pipariya, District Kabirdham (Kawardha) (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through the District Magistrate Kawardha
District Kabirdham (C.G.)

---- Respondent

For the Applicant : Mr. Chandrashekhar Kaushisk, Advocate
For the Respondent : Mr. Vikram Dixit, Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

31.01.2019

1. The judgment under challenge in this revision petition is dated 17.10.2008 passed by Sessions Judge Kabirdham, in Criminal Appeal No. 24/2008, affirming the judgment dated 03.04.2008 passed by Chief Judicial Magistrate Kawardha, in Criminal Case No. 679/2006, convicting the accused/applicant under Section 354 and 323 IPC and sentencing him to undergo RI for 6 months with fine of Rs. 500/- under Section 354 IPC and fine of Rs. 1000/- under Section 323 IPC plus default stipulation.

2. Facts of the case, in brief, are that on 16.06.2006 at about 7.00 AM, the prosecutrix (PW-2) was going to field when she reached near the house of the accused/applicant then the

applicant with an intention to outrage her modesty caught hold the hands of the prosecutrix and used criminal force on her and dragged her inside the house and tried to remove her clothe and threatened to kill her if she disclosed the same to anyone. The prosecutrix (PW-2) extricated herself from the clutch of the accused/applicant and during the scuffle bangles of the prosecutrix (PW-2) were broken and she received injuries on her body. Thereafter, the prosecutrix (PW-2) returned to her house and narrated the incident to her husband. On the same day, FIR (Ex.P-2) lodged by prosecutrix (PW-2) in Police Station Pipariya. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicant.

3. The trial Court found the accused/applicant guilty under Sections 354 and 323 IPC, which in appeal has also been affirmed vide judgment impugned. Hence, this revision.

4. Conviction is not being pressed on merit and the sole prayer made by the counsel for the applicant is confined to reduction of sentence imposed on the accused/applicant to the period already undergone on account of the fact that the case is quite old and the accused/applicant has already remained in jail for some time.

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

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

7. The FIR(Ex-2) was lodged on the same day. The prosecutrix who was examined as PW-2 has stood firm in her deposition and her statement is duly supported by her husband Baratiya (PW-1). The pieces of broken bangles during scuffle were also seized under Ex.P-3. Also the medical evidence supported the case of the prosecution under (Ex.P-7). Thus, taking into consideration the material collected by the prosecution including the evidence of the witnesses, it is apparent that on the date of incident the accused/applicant used criminal force on the prosecutrix (PW-2) with intention to outrage her modesty.

8. 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/applicant guilty under Sections 354 and 323 IPC, and being so, the same is hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 2006, that the accused/applicant has already remained in jail for a period of 8 days and further that by now he must be leading a well settled life saddled with innumerable responsibilities, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone.

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

Sd/-

(Vimla Singh Kapoor)

JUDGE