

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 190 of 2002

Shyam Bihari S/o. Ram Naresh Yadav, Aged about 40 years, R/o. Rajiv Nagar, (Krishna Nagar) Near sulabh, Police Station Supela District Durg (C.G.)

---- **Applicant**

Versus

State of Chhattisgarh, Through District Magistrate Durg District Durg (C.G.)

---- **Respondent**

For Applicant : Mrs. Indira Tripathi, Advocate
For Respondent : Mrs. M.Asha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

07.01.2019

This revision is directed against the judgment dated 08.02.2002 passed by the Special Judge and Additional Sessions Judge Durg, in Criminal Appeal No. 153 of 2000, modifying the judgment of conviction and order of sentence dated 13.12.2000 passed by the Judicial Magistrate First Class, Durg in Criminal Case No. 316/2000, convicting and sentencing the accused/applicant under Sections 354 and 452 IPC and sentencing him to undergo RI for 6 months and to pay fine of Rs. 1000/- under section 354 IPC, RI for six months and to pay fine of Rs. 500/- under section 452 IPC with default stipulation.

2. Facts of the case, in short, are that on 21.04.1999 at about 2.00 pm in the afternoon when the prosecutrix (PW-1) along with

her younger sister in the house, then the applicant sickle in his hand entered in the house of the prosecutrix (PW-1) and tried to outrage her modesty and threatened her to kill. On 23.04.1999 FIR (Ex.P-1) was lodged by (PW-1) against the accused/applicant and after completion of investigation charge sheet was filed against him under sections 354,506 B, 452 and 3(i)(ii) of the SC and ST Act and charge was framed.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicant under Sections 354,506 B, 452 and 3(i)(ii) of the SC and ST Act. The findings recorded by the trial Court have subsequently been modified by the lower appellate court and convicted the applicant under sections 354 and 452 IPC. Hence, this revision.

4. Counsel for the accused/applicants submits that both the Courts below have fallen in a serious error in convicting the accused/applicant under Sections 354 and 452 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. From the statement of the (PW-1), (PW-2) & (PW3), this Court went through the evidence of the important witnesses which shows the involvement of the accused/applicant in the crime in question where he is alleged to have forced himself and entered into the house of the prosecutrix (PW-1) where he tried to outrage her modesty. Amroutin Bai (PW-4) 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 Sections 354 and 452 IPC and therefore, the same is hereby maintained.

8. As regards sentence, keeping in view the fact that the incident had taken place in the year 1999, that the accused/applicant has already remained in jail for a period of 47 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. Order accordingly.

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

Sd/-
(Vimla Singh Kapoor)
JUDGE

Santosh