

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 368 of 2008

Order reserved on 03.12.2018

Order pronounced on 25.02.2019

Chetan LaL aged about 25 years, S/o Beersingh, R/o Village Aawradabri, P.S. Mahasamund, Tahsil and District Mahasamund, CG.

---- Applicant

Versus

State of Chhattisgarh, through the Police Station, Mahasamund District Mahasamund, CG.

---- Respondent

For Applicant	: Shri J.A. Lohani, Advocate
For State/ Respondent	: Smt. M. Aasha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Order

FIR Ex. P-1 was lodged by the prosecutrix (PW-1) on 24.05.2007 to the effect that on 19.05.2007 at about 11 pm when she came out of her house to answer the call of nature, accused/applicant came there, dragged her to the veranda, threw her on the ground and removed her *sari* with an intention to outrage her modesty. Further case of the prosecution is that on hearing the cries of the prosecutrix her mother-in-law (PW-3) came there and on seeing her the accused/applicant ran away. After completion of investigation *challan* was filed against the accused/applicant u/s 354 IPC.

2. Learned trial Court vide judgment dated 24.01.2008 found the accused/applicant guilty under Section 354 IPC and sentenced him to undergo RI for two years with fine of Rs. 100/-, plus default stipulation. In appeal also, the conviction and sentence awarded by the trial Court remained undisturbed vide judgment impugned dated 20.05.2008 passed in Criminal Appeal No. 14/2008. Hence this revision.

3. Though conviction of the accused/applicant is not being pressed by the counsel for the accused/applicant and he would make a limited prayer of

reduction of sentence to the period already undergone yet this Court has to decide the case on its own merits. State counsel however, supports the judgment impugned.

4. The evidence of prosecutrix (PW-1) duly supported by her in-laws being PW-2 and PW-3, it is apparent that on the date of incident when the prosecutrix had come out to ease herself, the accused/applicant went to her, dragged her to the veranda and removed her *sari* with an intention to outrage her modesty. It is also apparent from the evidence that in a meeting convened in the village, the accused/applicant had pleaded forgiveness for his act. Of course, there is some delay in lodging the report on the part of the prosecutrix but as in the cases where image of a girl is involved, people think time and again before making such matters public and therefore such delay does not adversely affect the case of the prosecution. Courts below have thus been fully justified in convicting the accused/applicant under Section 354 IPC. There is no illegality in the same being in conformity with the material on record. Conviction is thus maintained.

5. Since the accused/applicant has remained in jail for 15 days and further that a considerable period of 12 years has been rolled by from the date of commission of the offence, this Court feels it in the interest of justice to reduce the sentence imposed on him to the period already undergone so that at this stage his burdensome family life is not put at stake. However, the fine imposed by the Courts below is enhanced to Rs. 2,000/- to be paid to the prosecutrix as compensation in terms of Section 357 of the Code of Criminal Procedure. This order would be available only if the applicant deposits the fine amount in the trial Court within a period of three months from the date of receipt of copy of this order. Order accordingly.

6. Revision is thus allowed in part with the aforesaid.

Sd /-

(Vimla Singh Kapoor)

Judge