

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Order reserved on 13.11.2018

Order delivered on 07.01.2019

CRR No. 318 of 2009

1. Manmati wife of Narayan, aged about 33 years, Labourer, R/o Village Kunjnagar, PS Jainagar, Surajpur, District Sarguja, CG

---Applicant/Complainant

Versus

1. Ashok Kumar Haldhar son of late Motilal Haldhar, aged about 28 years, R/o Village Bangalipara, Surajpur, District Sarguja, CG
2. State of Chhattisgarh through PS Jainagar, Surajpur, District Sarguja, CG

--- Respondents

For Applicant	-	Shri Ashok Kumar Shukla, Advocate.
For Respondent	-	Shri Gary Mukhopadhyaya, GA

Hon'ble Smt. Vimla Singh Kapoor, J.

CAV Order

By this revision petition the applicant/complainant has assailed the judgment dated 28.04.2009 as far as it relates to sentence part thereof, passed by Additional Chief Judicial Magistrate, Surajpur in Criminal Case No. 636/2003.

2. Main thrust of the applicant/complainant herein is to the imposition of proportionate sentence on respondent/accused Ashok Kumar Haldhar under Sections 325, 323, 342 and 354 IPC for which he has been held guilty by the Court below.

3. Facts of the case in brief are that on 26.09.2003 when the applicant/complainant - examined in the court as PW-3, was standing outside the Surajpur Court campus to get back home, respondent/accused came to her and on the pretext of doing some household work, he took her with him. It is also alleged that when the applicant was sweeping the house of the accused, he caught hold of her hand in order to outrage her modesty. On hearing the cries of the applicant, two-three persons of the vicinity entered the house of the accused by breaking open the door but before that the accused had detained her in his house and caused club injuries to her. Thereafter, she lodged the report Ex. P-4 followed by medical examination.

4. It is argued on behalf of the applicant that the sentence imposed on the accused being quite inadequate needs to be enhanced suitably. He however does not lay emphasis on conviction part of the judgment impugned. State counsel too assisted the Court.

5. Dr. Koushlendra Nath Sharma (PW-6) in his report Ex. P-8 has stated that there was fracture in the little finger of left hand of the applicant/complainant which was grievous in nature. Further, on being produced by the accused, bamboo stick was seized under Ex. P-2. Though the accused has taken a defence that on account of being under the influence of liquor, the complainant had fallen down and suffered injuries yet the doctor (PW-6) did not speak anything as regards smell of liquor from her mouth. Dr. Shashi Tirki (PW-5) vide report Ex. P-7 has also stated that lacerated wound was noticed on the skull of the complainant in the size of 6 x 4 cm.

6. Thus from the evidence of the witnesses including that of the doctors (PW-5 and PW-6) it is apparent that on the date of incident, the respondent/accused took the complainant to his house on the pretext of household work where he tried to outrage her modesty, and that on alarm being raised by her, he detained her in his house and caused injuries on her head and fracture on her little finger. Conviction of the accused referred to above is thus fully justified and maintained as such.

7. As regards sentence which is mainly assailed in this revision, learned Court below appears to have been quite considerate while imposing the sentence on the accused. While doing so, it has kept various factors in mind - some of them being that he was the first time offender and maintained punctuality in ensuring his appearance in the Court on the dates so given. Sentence of imprisonment for 94 days with fine of Rs. 200/- u/s 325 and RI for three months u/s 342 and 354 IPC each thus does not seem to be insufficient and being so, this Court does not see any reason to enhance the same.

8. Revision thus being without any merit is hereby dismissed and the judgment impugned is affirmed.

Sd/-

(Vimla Singh Kapoor)
Judge