

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 403 of 2006

Saneshwar @ Saleswar S/o. Hanslal, Caste Panika, Aged about
23 years, R/o. Kodwahi, (Baderabahra) P.S. Pendra, District
Bilaspur (C.G.) **---- Applicant**

Versus

State of Chhattisgarh, Through Police Station Pendra, District
Bilaspur (C.G.) **---- Respondent**

For the Applicant : Mr. Akshay Uppal, Advocate
For the Respondent : Mr. Raghvendra Verma, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 29.04.2019

1. The judgment under challenge in this revision petition is dated 24.06.2006 passed by Additional Sessions Judge (FTC), Pendra Road, District Bilaspur in Criminal Appeal No. 16/2005, modifying the judgment dated 29.01.2005 passed by Judicial Magistrate First Class, Pendra road, in Criminal Case No. 81/2004, convicting the accused/applicant under Sections 451 and 354 IPC and sentencing him to undergo RI for 3 months with fine of Rs. 50/-u/s. 451 IPC and RI for 3 months plus default stipulation.

2. Facts of the case, in brief, is that on 20.06.2001, the victim (PW1) was sleeping in her room with her children. At about 10.00 PM, she feels that someone had caught hold her hands, she woke up and found that the applicant tried to outrage her modesty. On

her shouting, mother-in-law and niece of the victim came there then the applicant left the prosecutrix and fled away from there. The victim (PW-1) narrated the incident to them and on the next day, the prosecutrix along with her husband went to police Station and registered the FIR (Ex.P-3). After registration of offence and completion of investigation the charge sheet was filed against the accused/applicants.

3. The trial Court found the accused/applicants guilty under Sections 451 and 354 IPC, which on appeal has also been affirmed vide judgment impugned. Hence, this revision.

4. Learned counsel for the applicants submits that both the Courts below have erred in convicting and sentencing the applicants. He further submits that the judgment delivered by the learned Courts below is contrary to law and liable to be set aside.

5. Per contra, learned Panel Lawyer appearing for respondent-State submitted that after due appreciation of prosecution evidence, the learned Courts below have found the offence proved against the applicants, which requires no interference.

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

7. After considering the submissions made by learned counsel for the parties, it is apparent that the victim (PW1) appears to be believable. No such enmity is established by the applicant by which it can be said that he was falsely implicated in the matter.

The testimony of the prosecutrix is duly corroborated by her mother in law (PW-2), timely lodged FIR Ex.P/1. There is a concurrent finding of fact of the two courts below that the applicant used criminal force on the prosecutrix (PW-1) with intent to outrage her modesty. Thus, the findings of guilt recorded by the two courts below against the applicant under Sections 451 and 354 IPC does not suffer from any legal or factual infirmity so as to call for any interference in revision.

8. As regards sentence, keeping in view the fact that the incident had taken place in the year 2001, that the accused/applicant has already remained in jail for a period of 20 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. However, the fine imposed by the Courts below is enhanced to Rs. 1,000/- from that of Rs. 50/- as imposed by the Courts below. Let this amount be deposited in the Court below within a period of 4 months from today or else they may not derive the benefit of this order.

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

Sd/-

(Vimla Singh Kapoor)
JUDGE