

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 587 of 2009

Judgement reserved on 19.03.2019

Judgement delivered on 22.11.2019

Nikolas Lakra S/o. Piyush Lakra, Aged about 48 years, Caste Uraon, Occupation Agriculturist, R/o. Village Saraidih, Police Station Shankargarh, District Surguja (C.G.) ---- **Applicant**

Versus

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

For Applicant : Mr. Shaktiraj Sinha, Advocate.

For Respondent No.1 : Mr. Aman Kesharwani, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Judgment

On 28.10.2007 FIR Ex.P-1 was lodged by PW-1 in Police Station Shankargarh, it is alleged that on 26.10.2007 at about 7.30 PM in the night when she along with her son Ashok were in the house at the relevant time the applicant Nikolas Lakra gained an entry thereto and tried to outrage her modesty and while doing so, he even tore the blouse worn by her. Upon this, the complainant made hue and cry then the applicant assaulted on the back of the complainant with a *lathi*. In the meantime, her son Ashok came there and was the witness of the incident. The

incident was reported to the Police Station Shankargarh. After completion of investigation, charge sheet was filed against the applicant under Sections 354,456 and 323 IPC.

2. By the judgment dated 14-04-2009 learned trial Court acquitted the applicant under Section 323 IPC and convicted him under Sections 354 and 457 IPC and sentenced him to undergo RI for 3 months u/s 354 IPC and RI for 6 months and to pay fine of Rs. 100 u/s 457 IPC with default stipulations. The findings recorded by the trial Court have subsequently been affirmed by the lower appellate Court. Hence, this revision.

3. Learned counsel for the applicants submits that the judgment of conviction and order of sentence passed by both the Courts below is arbitrary, illegal and contrary to the law. He submits that the Court below ought to have considered that PW-1, PW-2, PW-3 and PW-4 are the relative witnesses and no independent witnesses have been examined in this case by the prosecution in spite of statement of PW-1 that one Lodharam was also the eye witnesses of the incident. He lastly submits that whole case of the prosecution is based on weak nature of testamentary as well as circumstantial evidence and also upon conjecture and surmises.

4. On the other hand, learned State counsel supported the impugned judgment of conviction and sentence and opposed the arguments advanced by learned counsel for the applicant.

5. Having gone through the material on record in particular the evidence of PW-1, PW-2, PW-4 and PW-6, clearly indicating the involvement the applicant in the crime in question where he is alleged to have forced himself and gained an entry thereto and tried to outrage her modesty and while doing so, he even tore the blouse worn by her which was seized vide Ex.P-2. Ashok Kumar (PW-3) 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 457 IPC and therefore, the same is hereby maintained.

6. As far as the sentence part of the judgment impugned is concerned, looking to the fact that the incident had taken place 12 years ago and the applicant has already remained in jail for a period of 15 days and deposited fine amount imposed on him, in my opinion, no useful purpose is going to be served in again sending him to jail. Accordingly, the sentence is reduced to the period already undergone by him.

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

Sd/-
(Vimla Singh Kapoor)
JUDGE