

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 344 of 2009

- Rakesh Kumar, S/o Rafail Khalkho, aged about 25 years, R/o 10th Battalion, Special Arms Force, Silfili, District-Sarguja, Chhattisgarh.

---- Appellant

Versus

- State of Chhattisgarh Through Police Station- Ambikapur, District-Surguja Chhattisgarh.

---- Respondent

For the Appellant : Mr.Jitendra Shrivastava, Advocate.

For the State/Respondent : Mr. Lav Sharma, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Judgment on board

30/01/2019

1. This appeal has been preferred against the judgment of conviction and order of sentence dated 24.2.2009 passed by 4th Additional Sessions Judge(FTC), Ambikapur, District-Sarguja, Chhattisgarh, in Sessions Trial No.334/2006, convicting the accused/appellant under Sections 458, 342 & 506-B of Indian Penal Code (for short 'IPC') and sentencing him to undergo RI for 3 years with fine of Rs.500/- & RI for 6 months and RI for 1 year with fine of Rs.500/- with usual default clauses.
2. The prosecution case, in brief, is this that on 15.5.2006 complainant Francesca Toppo PW-5, who is a police personnel was present on duty in police control room at about 9.30 pm. After completing her

duty in the police control room came to her residence at about 9.30 pm. The appellant arrived at the door of the complainant house. The appellant always used to express the one side love for her. The complainant refused his entry, then appellant committed house trespass by jumping the wall and he also fired from his service rifle 10 to 12 rounds, thereafter, the appellant pointed the rifle at the complainant and asked her to marry him and threatened that otherwise he will kill her. The appellant continued threatening her when the witnesses arrived outside the house of the complainant. The appellant had closed the door from inside and did not allow to anybody and continued harassing the complainant for the whole night. FIR ExP-4 was lodged in police-station-Ambikapur, on that basis the investigation was made and after completion of investigation, charge-sheet was filed against the appellant before the Court below concerned.

3. Charges under Sections 458, 342, 307 & 506-B of IPC were framed against the appellant, he abjured his guilt and sought trial. The prosecution in order to prove its case examined 12 witnesses in all. Statement of appellant was also recorded under Section 313 of CrPC in which he denied all the incriminating evidence appearing against him, pleaded innocence and false implication. One witness was examined by appellant in his defence. On conclusion of trial appellant stands convicted and sentenced as aforementioned in the impugned judgment.
4. It is submitted by counsel for the appellant that as per report received

from the concerned jail authority, the appellant has already been released from jail after serving out the entire substantive sentence imposed upon him by the trial Court. Even then, it is submitted that the appellant has been falsely implicated in the present case and has been convicted & sentenced by the trial Court without there being any evidence to sustain the conviction & sentence. Hence, the conviction of appellant under Sections 458, 342 & 506-B of Indian Penal Code (for short 'IPC') is bad in law and fit to be set aside.

5. Learned counsel for the State has opposed the grounds raised in this appeal as also the arguments advanced by the counsel for the appellant. It is submitted that prosecution has proved its case beyond doubt. The judgment impugned passed by the trial Court is strictly in accordance with law and needs no interference by this Court in exercise of its appellate jurisdiction. Hence, the appeal is liable to be dismissed.
6. I have heard learned counsel for the parties and perused the record of the trial Court including the impugned judgment.
7. The question that requires determination in this appeal is as to whether the prosecution has been able to establish guilt of accused/ appellant, on the basis of evidence beyond reasonable doubt ?
8. After perusing and closely scrutinizing the entire evidence available on record, it is apparent that the trial Court elaborately considered the evidence of each individual material witness in detail and that being the position, this Court is the opinion that the trial Court has not

committed any mistake in arriving at a conclusion that the appellant is guilty for the offence punishable under Sections 458, 342 & 506-B of Indian Penal Code (for short 'IPC'). Hence, this appeal has no substance, the same is liable to be dismissed and is hereby dismissed.

9. Since the appellant has already served the period of rigorous imprisonment to which he was sentenced, no further direction regarding his surrender etc. is needed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha