

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 280 of 2004

Balwant Mahobia S/o. Pushanlal Mahobia, Aged about 39 years,
R/o. Village Dunderdahi, P.S. Gunderdahi, District Durg (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through the Collector Durg District Durg
(C.G.)

---- Respondent

For the Applicant : Mr. Vivek Sharma, Advocate
For the Respondent : Ms. M. Asha, P.L.

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

07.01.2019

1. The judgment under challenge in this revision petition is dated 10.05.2004 passed by Sessions Judge Durg, in Criminal Appeal No. 19/2004, affirming the judgment dated 14.01.2004 passed by JMFC, Durg, in Criminal Case No. 1306/2002 convicting the accused/applicant under Section 354 IPC and sentencing him to undergo RI for 6 months with fine of Rs. 500/- plus default stipulation.

2. Facts of the case, in brief, are that on 14.10.1999 at about 4.00 PM, when the prosecutrix (PW-1) was returning after answering call of nature, the accused/applicant stopped her on the way and forcibly pressed her breast and asked her to come

with him. At the same time, on seeing a jeep came from the opposite direction the applicant left her and run away fled from there. Thereafter, the prosecutrix (PW-1) returned to her house and narrated the incident to her relatives. On the same day, about about 4.30 pm, FIR (Ex.P-1) lodged by prosecutrix (PW-1) in Police Station Gundardehi. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicant.

3. The trial Court found the accused/applicant guilty under Section 354 IPC, which in appeal has also been affirmed vide judgment impugned. Hence, this revision.

4. Learned counsel for the applicant submits that both the Courts below have erred in convicting and sentencing the applicant. He further submits that the judgment delivered by the learned Courts below is contrary to law and liable to be set aside. Finally, it is averred that revision be allowed and the applicant be acquitted in respect of the offence punishable under Section 354 IPC.

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 applicant, which requires no interference.

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

7. 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. The aforesaid finding of fact does not suffer from any infirmity in view of the evidence of Prosecutrix (P.W.-1) and the corroborative evidence of Nammuram (P.W.-3). The FIR (Ex.P-1) of the incident was also promptly lodged on the same day. Thus, the findings of guilt recorded by the two courts below against the applicant under Section 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 1999, that the accused/applicant has already remained in jail for a period of 4 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.

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

Sd/-

(Vimla Singh Kapoor)
JUDGE