

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 14 of 2008

- Smt. Narmada Bai, W/o Shri Manharan, aged about 40 years, R/o village Mekari, P.S. Pamgarh, District Janjgir Champa (C.G.)

---- Applicant

Versus

1. State of Chhattisgarh, through S.H.O Police Station Pamgarh, District Janjgir – Champa (C.G.).
2. Pappu @ Ravikumar S/o Siyaram suryavanshi, aged about 21 years.
3. Baharata S/o jairam Patel, aged about 43 years.
(Revision in respect of respondent No. 3 has been dismissed for non-compliance of Court's order dated 14.12.2015)
4. Kalu @ Ramvatar, S/o Munna Lal Chouhan, aged about 20 years.
5. Ramkali @ kaliram, S/o shivnandanKurmi, aged about 40 years.
6. Ramkumar, S/o Ghasiram mehar (Mochi), aged about 35 years.
(Revision in respect of respondent No. 6 has been dismissed for non-compliance of Court's order dated 14.12.2015)
7. Rajesh Sahu S/o Sukhiram Sahu, aged about 32 years.
All are resident of Dongakaharouda, P.S. Pamgarh, district. Janjgir- Champa (C.G.)

---- Respondents

For Applicant	Shri J. K. Shastri, Advocate
For State	: Shri Subhash Yadav, Dy. G.A.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board by Hon'ble Shri Justice Manindra Mohan Shrivastava

21/06/2019

1. This revision is directed against the judgment of acquittal dated 22.11.2007 passed by Sessions Judge Janjgir – Champa (CG) in Special Sessions Trial No. 103/2007 by which the respondents/accused have been acquitted of all the charges leveled against them under Sections 147, 294, 506 (II), 376 (II G) of IPC.
2. From the record, we find that on account of non-payment of Process Fee against Respondents 3 & 5, the revision petition against those respondents has already been dismissed under peremptory order. The revision stands only against respondents No. 2, 3, 5 & 7.
3. Complainant/victim Narmada Bai (PW -2) lodged an FIR in Ex. P-3, in the Police Station on 01.01.2007 alleging that on that day, at about 10 AM, when she was working in the field along with her husband Manharan (PW-7) and another worker Ganga Bai (PW-8), Rajesh Sahu along with three other persons came to the field and started raising objection seeing that the complainant and other persons were unauthorizedly working in their agricultural field and thereafter, he hurled abuses and warned to run away from the field. It was further stated that, later on, because of the

threat of assault, her husband Manharan (PW-7) and Ganga Bai (PW-8) both ran away and, thereafter, Rajesh Sahu and others caught hold of her wrist with intention to outrage her modesty. It was also stated that in respect of agricultural land, a dispute with Sukhram Sahu, father of Rajesh Sahu was already pending and decision was given in their favour. Even then, Rajesh Sahu, acting mischievously, arrived at the spot, with the intention to assault, threat and hurled abuses. On this report offences under Sections 294, 506, 354 read with Section 34 IPC were registered. Later on, the matter was reported in the SC/ST Police Station and offence under Sections 147, 149, 294, 506, 354 as well as 376 as also offences under Section 3(1)(x) of the Sc/St act, 1999 were registered. The prosecution filed charge-sheet and the respondents/accused were tried for the commission of alleged offences.

4. Learned trial Court, however, vide impugned judgment held that alleged commission of offence of rape and other allegations are not made out and it appears to be a petty dispute between the parties with regard to the alleged right over the agricultural land. It is this judgment of acquittal against which this petition has been preferred by complainant Narmada Bai.

5. Counsel for the complainant would submit that the complainant in her evidence, clearly stated that when she had gone to the agricultural field along with her husband Manharan and Ganga Bai, the respondents/accused arrived there, hurled abuses, threatened and thereafter, she was subjected to rape and she was also assaulted. However, the said evidence of the prosecutrix has been disbelieved by the learned Court below giving undue weightage and importance to minor contradictions and omissions. It is further argued that the medical evidence proves that the prosecutrix (PW-2) suffered injuries also which fully corroborates the evidence of the prosecutrix that she was subjected to rape. Learned counsel for the revision petitioner would further argue that the learned trial Court also ignored that the evidence of Narmada Bai (PW-2), Manharan (PW-7) and Ganga Bai (PW-8) clearly proves the allegation of accused arriving at the spot, holding out threat, hurling abuses and committing rape.

6. Learned State counsel submits that the prosecution has led evidence of the prosecutrix and other persons who were witnesses of the incident regarding the alleged commission of offence.

We find that the State has not filed any appeal against acquittal.

7. There is no representation made on behalf of respondents No. 2, 4, 5 & 7.

8. After going through the impugned judgment of the trial Court, we find that insofar as the allegation of commission of offence of rape on prosecutrix (PW-2) is concerned, the same has been doubted as in the FIR (Ex. P/3) lodged by the prosecutrix herself there is no allegation of commission of offence of rape. This revision already stands dismissed as against Ramkumar.

9. As far as all other accused are concerned, we now involved in the present revision (Except non-applicants No. 3 & 5) are alleged to be involved in the incident on the ground that they hurled abuses and held out threat. Learned trial Court has examined the evidence on record and found that the allegation of hurling abuses and commission of offence under Section 294 IPC and offence of threat is also not made out. The victim Narmada Bai (PW-2) is found to have sustained injuries minor in nature. Even these injuries are alleged to have been caused to her by one of the co-accused Ramkumar. As far as respondents No. 2, 4, 5 & 7 are concerned, the allegations against them have also not been found to be very specific.

We also find that the respondents/accused remained in jail for almost three months before they were granted bail.

10. In view of the aforesaid consideration, at the stage, we are not inclined to interfere with the impugned judgment of acquittal. Accordingly, revision is dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge