

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 966 of 2002**

Manoj Kumar Jain S/o Krishna Ram Jain, aged about 23 years, Occupation Driver R/o Hatkodal Thana Bhanupratapur, District Kanker (C.G.).

---- Appellant**Versus**

State of Chhattigarh, Through the District Magistrate, Kanker (C.G.)

---- Respondent

For Appellant	:	Mr. Anurag Kaushik, Advocate
For Respondent	:	Mr. Amit Verma, PL

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**05/12/2019**

1. This appeal has been preferred against the judgment dated 19/08/2002 passed in Sessions Trial No. 429/2001 by the Special Judge, Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, Jagdalpur (C.G.), whereby the Appellant has been convicted under Section 3 (1) (xi) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act (henceforth 'the Act') and sentenced to undergo RI for 1 year and 6 months and to pay fine of Rs. 1000/- with default stipulation.
2. Facts of the case are that the Prosecutrix (PW3) belongs to schedule tribe. On 18/06/2001 at about 7:30 pm, she had gone to attend the call of nature in the field. The Appellant came there and caught hold her with ill intention. The Appellant also dragged her. When the

Prosecutrix raised alarm, her brother Ramchandra came to the spot and saved her. Thereafter, the matter was reported on 19/06/2001 vide Ex.P-4. Statement of Prosecutrix and other witnesses have been recorded. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges. As many as 6 prosecution witnesses have been examined. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C has been recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submits that the trial Court has wrongly convicted the Appellant without there being any sufficient evidence available on record. From the statement of witnesses, it seems that there was love relation between the Prosecutrix and the Appellant and due to that she had gone to meet the Appellant, but when she was seen by her brother, then due pressure of her brother the false report was reported. He further submits that if the entire case of the prosecution is taken as it is, yet no offence under the aforementioned Act is made out against the Appellant. There is nothing on record on the basis of which it can be said that the alleged act has been committed because the Prosecutrix belongs to particular caste.
5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.

6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. There is no dispute on the point that the Prosecutrix is a member of Schedule Tribe community. In her court statement, the Prosecutrix (PW3) has categorically stated that at the relevant time, she had gone to attend the call of nature. The Appellant came there and caught hold her. When she made alarm, her brother came there and assaulted the Appellant. She denied the suggestions that there was love relation between her and the Appellant. Ramcharan (PW4) one of the brother of the Prosecutrix has also supported the statement of the Prosecutrix and has deposed that on listening the cry of the Prosecutrix, they reached to the Spot and the Appellant fled away from there. There, the Prosecutrix told them that the Appellant had caught hold her hand. Both the above witnesses have remained firmed during their cross-examination. Though these witnesses and other witnesses have admitted that firstly a report had been made by the Appellant and thereafter they had made report, from the above facts and evidence this does not help the Appellant because according to the prosecution case when the Appellant tried to molest the Prosecutrix then her brother came there and assaulted him which is a natural reaction from any brother. In these condition, it cannot be said that since the Appellant had firstly made a report and to implicate the Appellant falsely, the Prosecutrix had made report.
8. From the entire evidence available on record, in my considered opinion, offence under Section 354 of the IPC is duly established. But on the basis of evidence available on record, it cannot be said that the

alleged act has been done because the Prosecutrix belongs to particular caste. Thus, only offence under Section 354 of the IPC is made out against the Appellant and no offence under Section 3(1) (xi) of the Act is proved against the Appellant.

9. Accordingly, the Appellant is acquitted from the charge framed under Section 3 (1) (xi) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act. However, his conviction under Section 354 of the IPC is affirmed.
10. Since the Appellant has already undergone about 14 days in jail, he is facing the *lis* since 2001 and there is no criminal antecedent against him, I am of the view that the ends of justice would be met if, while convicting the Appellant under Section 354 of the IPC, the jail sentenced awarded to him is reduced to the period already undergone by him.
11. Consequently, the appeal is partly allowed. The Appellant is convicted under Section 354 of the IPC and sentenced to the period already undergone by him.
12. It is reported that the Appellant/accused is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of 6 months in view of the provisions contained in Section 437-A of Cr.P.C.
13. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge