

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 636 of 2008

Puran S/o. Timan Patel, Aged about 28 years, R/o. Village Batora, Chowki Komakhan, Police Station Bagbahra, Tahsil and District Mahsamund (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through Station House Officer, Police Station Bagbahra, District Mahasamund (C.G.)

---- Respondent

For the Applicant : Mr. Ajay Kumar Chandra, Advocate
For the Respondent : Mr. Raghvendra Verma, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

08.04.2019

The judgment under challenge in this revision petition is dated 04.09.2008 passed by Sessions Judge Mahasamund, in Criminal Appeal No. 125/2007, affirming the judgment dated 15.11.2007 passed by Judicial Magistrate First Class Mahasamund, in Criminal Case No. 244/2007, convicting the accused/applicant under Sections 456 and 354 IPC and sentencing him to undergo RI for 6 months with fine of Rs. 500/- u/s. 456 IPC and RI for 6 months plus default stipulation.

2. Facts of the case, in brief, is that on 28/11/2005 at about 9.45 PM, the prosecutrix (PW1) without locking the door of the house, she was lying in bed and her husband was outside of the

house for watching cricket. At that time, the applicant gained an entry thereto and tried to outrage her modesty by catching hold of her hands. On hearing the screaming, mother-in-law of the complainant (PW-1) came there and tried to catch the applicant but anyhow, he managed to flee during which his *kanthi* was snatched by the complainant (PW-1). The complainant narrated the incident to her husband and a meeting was called but the matter was not resolving in the meeting, thereafter, the complainant (PW-1) made a written complainant (Ex.P-1) in Police Chowki Komakhan and on the basis of written complaint, FIR (Ex.P-2) lodged in Police Station Bagbahara against the applicant. 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 Sections 456 and 354 IPC, which in appeal has also been affirmed vide judgment impugned. Hence, this revision.

4. Conviction is not being pressed on merit and the sole prayer made by the counsel for the applicant is confined to reduction of sentence imposed on the accused/applicant to the period already undergone on account of the fact that the case is quite old and the accused/applicant has already remained in jail for some time.

5. State counsel however, supports the findings recorded by the both the Courts below.

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

7. After considering the submissions made by the learned counsel for the parties and looking to the facts and circumstances of the case, the testimony of the prosecutrix (PW-1) and other witnesses along with timely lodged the FIR Ex.P/2 is acceptable. The complainant who was examined as PW-1, has stood firm in her deposition and her statement is duly supported by her mother-in-law Suraj Bai (PW-2). The prosecution case is also supported by Hemlal (PW-6), who is neighbour of the complainant (PW-1). After committing the offence, the applicant tried to flee during which his *kanthi* was snatched by the complainant (PW-1) under Ex.P-4. Even, the report Ex.P-2 and Ex.P-4 was filed only against accused/applicant which has even been approved by PW-1 has also supported the case of the prosecution stating that the complainant (PW-1) while lodging the report had clearly disclosed the act of the accused/applicant that on the date of incident he had entered her house in the midnight and tried to outrage her modesty. Thus, taking into consideration the material collected by the prosecution including the evidence of the witnesses, it is apparent that on the date of incident the accused/applicant had committed a house trespass and used criminal force on the prosecutrix with an intention to outrage her modesty.

8. Thus, in view of the factual discussion made above in the light of the evidence of the witnesses, this Court is of the opinion that both the Courts below have been quite justified in holding the accused/applicant guilty under Sections 456 and 354 IPC, and being so, the same is hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 2005, that the accused/applicant has already remained in jail for a period 20 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.

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

Sd/-

(Vimla Singh Kapoor)
JUDGE

Santosh