

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 794 of 2008

Sharad Pradhan, Aged 30 years, S/o. Shri Labho Pradhan, R/o. Village Bichiya, Tahsil and Police Station Basna, District Mahasamund (C.G.)

---- **Applicant**

Versus

State of Chhattisgarh through Police Station Basna, District Mahasamund (C.G.)

---- **Respondent**

For Applicant : Mr. Tarun Dansena, Advocate
For Respondent : Mr. Raghvendra Verma, P L

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 18.06.2019

On 02.05.2003 a written report (Ex.P-1) made in Police Station Basna and on the basis of which FIR (PW-2) was registered alleging that on the said date when she was alone in her house and was waiting for her husband, the applicant came to there on motorcycle, caught hold her hands and pressed her breast and the inner parts with an intention to outrage her modesty. Thereafter, on hearing the shouts for help, her mother-in-law rushed to the spot but on seeing her, the applicant started abusing, pulled her hair and fled away. Investigation ultimately resulted in filing of challan against the accused/applicant under

Sections 354 and 323 IPC followed by framing of charge accordingly.

2. By the judgment dated 04-01-2007 learned trial Court convicted the accused/applicant under Sections 323 and 354 IPC and sentenced him to undergo RI for 6 months and to pay fine of Rs. 500 under Section 354 IPC and RI for 3 months and to pay fine of Rs. 500 under Section 323 IPC with default stipulations, however, in appeal, learned Appellate Court has been acquitted the applicant u/s 323 IPC but maintained his conviction u/s. 354 IPC by the judgment impugned. Hence, this revision.

3. Learned counsel for the applicant submits that the order impugned being contrary to the evidence on record is liable to be set aside. Learned counsel for the State, however, supports the same.

4. I have heard learned counsel for the parties and perused the record.

5. Evidence of the prosecutrix reveals that on the date of incident the accused/applicant came to her house, caught holds of her hands, pressed her breast and also touched her private part with an intention to outrage her modesty. She has further emphatically stated that on seeing her mother-in-law rushing to the place of incident the accused/applicant fled away abusing the complainant for his unsuccessful bid to the task in his mind. PW-5 Sundar has also supported the case of the prosecution stating that he saw the accused/applicant holding the hand of the complainant

as a result of which the Bengals worn by her were broken which subsequent were seized under Ex.P-6. PW-6 has also made a statement similar to PW-5. PW-2 the husband of the complainant has also stated that on arrival to his house back, his wife (the complainant) narrated her ordeal she had faced at the hands of the accused/applicant. Thus, the statement of these witnesses clearly prove the act of the accused/applicant and being so his conviction under Section 354 IPC does not suffer from any illegality and infirmity. It is maintained as such.

6. As far as the sentence part of the judgment impugned is concerned, looking to the fact that the incident had taken place 16 years ago and the applicant has already remained in jail for a period of 11 days and deposited fine amount imposed on him, in my opinion, no useful purpose is going to be served in again sending him to jail. Accordingly, his sentence is reduced to the period already undergone by him.

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

Sd/-

(Vimla Singh Kapoor)

JUDGE

Jyotishi/Santosh