

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 580 of 2009

Santosh Khilware, S/o. Ramu Khilware, Aged about 29 years, R/o.
Parsada, Thana Gobra Nawapara, District Raipur (C.G.)

---- **Applicant**

Versus

State of Chhattisgarh through Thana Gobra Nawapara District
Raipur (C.G.)

---- **Respondent**

For Applicant : Mr. Suresh Tandan, Advocate

For Respondent : Mr. Himanshu Sharma, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 16.05.2019

On 10.01.2007 complainant Lalita Bai (PW-1) lodged the FIR in police station Gobra Nawapara, alleging in it that on the date i.e. on 09.01.2009, she was alone in her and her husband went Champaran to see the fair. At about 8.00 PM, in the night the applicant again came in her house with intention to outrage her modesty and caught hold her hands, thereafter the complainant jerked her hands and abused him then the applicant left her and fled away from there. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicant.

2. By the judgment dated 11.08.2009 learned trial Court convicted the accused/applicant under Sections 451 and 354 IPC and sentenced him to undergo RI for 3 months and to pay fine of Rs. 300 under Section 451 IPC and RI for 3 months and to pay fine of Rs. 200 under Section 354 IPC with default stipulations, which on appeal has been affirmed 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. On the other hand, learned counsel for the State, however, supports the same.

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

5. Having gone through the material on record in particular the evidence of the important witnesses which shows the involvement the applicant in the crime in question where he is alleged to have forced himself and entered in her house and caught hold her hands and tried to outrage her modesty. Kumbhkaran and Malti Bai have also supported the case of the prosecution. Thus, the evidence clearly suggest that on the fateful day the accused/applicant, entered the house of the prosecutrix (PW-1) and there he, tried to outrage her modesty. Being so, this Court of the opinion that both the Courts below have been quite justified in holding the accused/applicant guilty under Sections 451 and 354 IPC and therefore, the same is hereby maintained.

6. As far as the sentence part of the judgment impugned is concerned, looking to the fact that the incident had taken place 12 years ago and the applicant has already remained in jail for a period of 15 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 them. However, the sentence of fine under section 354 is enhanced from Rs. 200/- to Rs. 2000/-. Let this amount be deposited by the accused/applicant in the trial Court within a period of four months from today. Order accordingly.

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

Sd/-

(Vimla Singh Kapoor)

JUDGE

Santosh