

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 150 of 2007

Jag Ram Yadav S/o. Dauram Yadav, Aged about 45 years, R/o. Village Seoni, Police Station Champa, District Janjgir Champa (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through Police Station Champa, District Janjgir Champa (C.G.)

---- Respondent

For Applicant : Mr. Anand Kesharwani, Advocate

For Respondent : Mr. R.K. Jaiswal, Dy. Govt. Advocate

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

14.01.2019

This revision is directed against the judgment dated 05.04.2007 passed by the Sessions Judge Janjgir Champa, in Criminal Appeal No. 10 of 2007, modifying the judgment of conviction and order of sentence dated 25.01.2007 passed by the Chief Judicial Magistrate, Janjgir in Criminal Case No. 72/2004, convicting and sentencing the accused/applicant as under Section 354 IPC and sentencing him to undergo RI for 1 year and to pay fine of Rs. 1000/- with default stipulation.

2. Facts of the case, in short, are that on 30.12.2003 at about 2.00 pm in the afternoon when the prosecutrix was returning after answering the call of nature, the applicant took the advantage of her alone, caught hold the hands of the prosecutrix

and took her to near Kothar where he tried to outrage her modesty by putting the clothe. The incident was seen by Dilip Rathore (PW-4) and on being seeing Dilip Rathore (PW-4) was coming there the applicant left the prosecutrix and run away from there. On the next day, mother of the prosecutrix (PW-2) lodged the report on the basis of which offence under Section 354 IPC was registered against the applicant and charge sheet was laid accordingly.

3. After examining the material available on record and the evidence of the witnesses the trial Court convicted the accused/applicant under Section 354 IPC. The findings recorded by the trial Court have subsequently been confirmed by the lower appellate court and altered the sentence RI for 1 year to that of RI for 2 year by the judgment impugned and it is that which is under challenge in this revision.

4. Counsel for the accused/applicants submits that both the Courts below have fallen in a serious error in convicting the accused/applicant under Section 354 IPC and that the findings so recorded are contrary to the evidence led by the prosecution. He further submits that as the prosecution could not prove its case beyond reasonable doubt, the judgment impugned is liable to be set aside.

5. On the other hand, counsel for the respondent/State supports the judgment impugned and submits that the findings recorded by the both the Courts below convicting and sentencing the

accused/applicants as shown above, are strictly in accordance with law and there is no infirmity in the same.

6. Heard counsel for the parties and perused the evidence on record.

7. From the statement of the (PW-1), (PW-2) & (PW3), this Court went through the evidence of the important witnesses which shows the involvement of the accused/applicant in the crime in question where he is alleged to have forced himself and taken undue advantage of her being alone, caught hold the hands of the prosecutrix and took her near Kothar where he tried to outrage her modesty by putting of the clothe. Dilip Rathore (PW-4) has also supported the case of the prosecution.

8. Thus, the evidence clearly suggest that on the fateful day the accused/applicant, taking undue advantage of her haplessness being alone, 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 Section 354 IPC and therefore, the same is hereby maintained.

9. As regards sentence, keeping in view the fact that the incident had taken place in the year 2003, that the accused/applicant has already remained in jail for a period of 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. In lieu of this, the applicant however, would be required to pay an enhanced sum of fine of Rs. 2000/- from that of Rs. 1000/-. Let this amount be deposited by the

accused/applicant in the trial Court within a period of three months from today. Order accordingly.

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

Sd/-
(Vimla Singh Kapoor)
JUDGE

Santosh