

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 305 of 2010

Mukesh Sharma, S/o. Late Netram Sharma, aged about 26 years,
R/o. Baloda Ward No.5, P.S. Baloda, District Janjgir-Champa, CG.

---- **Applicant**

Versus

State of Chhattisgarh through District Magistrate Janjgir-Champa,
CG.

---- **Respondent**

For Applicant : Shri N.K. Chatterjee, Advocate

For State/Respondent : Shri Aman Kesharwani, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

01/05/2019

FIR (Ex. P-1) lodged by prosecutrix (PW-1) goes to show that on 25.03.2007 in the dead of night when she was sleeping inside her house, the accused/applicant gained an entry therein by breaking open the door and also intimidated of her life. After investigation the challan was filed under Sections 294, 456, 506 and 427/34 IPC. The Court also below framed the charge under the same sections. Vide judgment dated 23.12.2009 Judicial Magistrate First Class, Janjgir-Champa found the accused/applicant guilty under Sections 506(B), 456 and 427 IPC and imposed the sentence of RI for three months with fine of Rs. 100/-, RI for three months with fine of Rs. 100/- and RI for three months with fine of Rs. 200/- respectively, plus default stipulations. In appeal also the findings recorded by the trial Court have been affirmed vide judgment impugned dated 03.07.2010 passed in Criminal Appeal No. 3/2010. Hence this revision.

2. Counsel for the accused/applicant submits that the statement of the prosecutrix being full of contradictions and omissions cannot be made basis for conviction of the accused/applicant under Sections 294, 506(B), 456 and

427 IPC. He further submits that none of the witnesses has corroborated the statement of the prosecutrix and for this reason the findings recorded by both the Courts below are liable to be set aside. State counsel however supports the judgment impugned.

3. Having seen the evidence of the prosecutrix (PW-1) and PW-6 it is apparent that on the date of incident in the mid night the accused/applicant had entered the house of the prosecutrix by breaking open the door and also threatened her of life. Evidence of these witnesses does not indicate any material contradiction and omission which could make this Court draw a conclusion other than the one recorded by the Courts below. The accused/applicant has also not brought forward anything in his defence on the basis of which he could get the clean chit in this revision. In the light of the evidence of the witnesses, the conviction of the accused/applicant as mentioned above, does not appear to suffer from any illegality or infirmity, and being so it is hereby maintained.

4. As regards sentence, looking to the fact that the incident had taken place in the year 2007 and since then 12 long years have already rolled by and further keeping in mind the fact that the accused/applicant has already remained in jail for 5 days, this Court thinks it in the interest of justice to reduce the sentence imposed on him to the period already undergone by enhancing the sentence of fine of Rs. 500/- under each section from that of the one imposed by Courts below. Order accordingly. Let this enhanced amount be deposited by the accused/applicant in the trial Court within a period of four months from today to derive the benefit of this order.

5. Revision thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge