

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 591 of 2006

Order reserved on 16.01.2019

Order pronounced on 22 .01.2019

Dheluram Sahu S/o Jidhanram Sahu, aged about 36 years R/o Singarbhatha, Police Station Abhanpur, Tahsil and District Raipur, CG.

---- Applicant

Versus

State of Chhattisgarh, through Aarakshi Kendra, Abhanpur, District Raipur, CG.

---- Respondent

For Applicant : Shri Rajat Agrawal, Advocate

For State/ Respondent : Smt. M. Aasha, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Order

The accused/applicant has preferred this revision petition against the judgment of conviction and order of sentence dated 23.09.2006 passed by Sessions Judge, Raipur, in Criminal Appeal No. 187/2006 affirming the judgment dated 28.07.2006 passed by Judicial Magistrate First Class, Raipur, in Criminal Case No. 143/2005 convicting the accused/applicant under Section 354 IPC and sentencing him to undergo RI for six months with fine of Rs. 500/-, plus default stipulation.

2. Facts of the case, in brief, are that on 09.01.2004 at about 8.30 PM when prosecutrix (PW-1) was returning after purchasing a mouth freshener "Sitar" from a grocery shop, the accused/applicant caught hold of her, gagged her mouth and kissed her. It is alleged that when the prosecutrix tried to get rid of the accused/applicant he pulled her by the shirt worn by her

as a result of which one of the buttons got disentangled. On hearing her cries, her sister in law (PW-3) came out and on seeing her the applicant ran away. After returning home, she narrated the entire story to her parents. Subsequently, on the report Ex. P-1 lodged by her, offence under Section 354 IPC was registered against the accused/applicant and the button of the shirt of the prosecutrix was seized from the spot under Ex. P-4. After completion of investigation *challan* was filed and the charge framed accordingly.

3. On being satisfied with the averments of the parties and evidence on record the trial Court convicted and sentenced the accused/applicant as mentioned above. The findings recorded by the trial Court have been affirmed by the lower appellate Court by the Judgment impugned, and it is that which is under challenge in this revision.

4. Learned counsel for the accused/applicant submits that the finding of conviction and sentence recorded by both the Courts below are contrary to the material on record and therefore, they are liable to be set aside.

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

6. Perusal of the evidence of the prosecutrix (PW-1) which is duly supported by PW-2, PW-3, PW-4 and PW-5, shows that on the date of incident when she was returning from the grocery shop, the accused/applicant caught hold of her, gagged her mouth and pulled her by the shirt worn by her. Record also shows that on seeing the sister-in-law of the prosecutrix (PW-3) the accused/applicant ran away. Thus, the act of the accused/applicant that he used criminal force on the prosecutrix

with an intention to outrage her modesty is clearly proved and there appears to be no need of interfering with the conviction part of the judgment impugned holding the accused/applicant guilty under section 354 IPC. Conviction is thus maintained.

7. As regards sentence, keeping in view the fact that the incident had taken place about 15 years back and the applicant has already remained in jail for a period of 26 days, this Court is of the opinion that it would be in the interest of justice to reduce the sentence to the period already undergone by him. Order accordingly.

8. Resultantly, the revision petition is hereby allowed in part with the modification in the judgment impugned as above.

Sd/-
(Vimla Singh Kapoor)
Judge

Jyotishi/Pawan