

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 67 of 2005

Pradeep Kumar Pradhan, Aged about 22 years, S/o. Krishna Prasad Pradhan, Occupation Agriculturist, R/o. Village Gudu, P.S. Pussaur, Tahsil and District Raigarh (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through District Magistrate Raigarh District Raigarh (C.G.)

---- Respondent

For the Applicant : Mr. V.R. Tiwari, Advocate
For the Respondent : Mr. Aman Kesharwani, P.L.

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

05.02.2019

- 1.** The judgment under challenge in this revision petition is dated 02.02.2005 passed by Additional Sessions Judge Raigarh, in Criminal Appeal No. 85/2004, affirming the judgment dated 30.04.2004 passed by JMFC, Raigarh, in Criminal Case No. 09/2003 convicting the accused/applicant under Section 354 IPC and sentencing him to undergo RI for 4 months with fine of Rs. 200/- plus default stipulation.
- 2.** Facts of the case, in brief, is that on 19.01.2003 at about 9.00 pm, the prosecutrix (PW-1) along with her cousin sister went to the agricultural field for plucking plum. At the same time, the

accused/applicant came there behind her back and forcibly pressed her breast and tried to open her underwear. When the prosecutrix (PW-1) shouted the applicant pushed her on the ground and fled away from there. Thereafter, the prosecutrix (PW-1) returned to her house and narrated the incident to her parents. On the same day about about 17.30 pm, FIR (Ex.P-1) lodged by prosecutrix (PW-1) in Police Station Pussor. After registration of offence and completion of investigation the charge sheet was filed against the accused/applicant.

3. The trial Court found the accused/applicant guilty under Section 354 IPC, which in appeal has also been affirmed vide judgment impugned. Hence, this revision.

4. Learned counsel for the applicant submits that both the Courts below have erred in convicting and sentencing the applicant. He further submits that the judgment delivered by the learned Courts below is contrary to law and liable to be set aside. Finally, it is averred that revision be allowed and the applicant be acquitted in respect of the offence punishable under Section 354 IPC.

5. Per contra, learned Panel Lawyer appearing for respondent-State submitted that after due appreciation of prosecution evidence, the learned Courts below have found the offence proved against the applicant, which requires no interference.

6. Heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

7. There is a concurrent finding of fact of the two courts below that the applicant used criminal force on the prosecutrix (PW-1) with intent to outrage her modesty. The aforesaid finding of fact does not suffer from any infirmity in view of the evidence of Prosecutrix (P.W.-1) and the corroborative evidence of Pavitra (P.W.-3) and Sanatan Gupta (P.W.-4). The FIR of the incident was also promptly lodged on the same day. Thus, the findings of guilt recorded by the two courts below against the applicant under Section 354 IPC does not suffer from any legal or factual infirmity so as to call for any interference in revision.

8. 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 6 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.

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

Sd/-

(Vimla Singh Kapoor)
JUDGE