

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 11-02-2020

Delivered on 05-03-2020

CRA No. 263 of 2011

- Deepak Yadav @ Guddu s/o. Purnik Yadav agd about 21 years, r/o village Ameri, Police Station Patan District Durg (CG).

---- Appellant

Versus

- State of Chhattisgarh through the District Magistrate, Raipur, District Raipur (CG).

---- Respondent

For Appellant : Mr. Shivendu Pandya, Advocate

For respondent : Mrs. Subha Shrivastava, Penal Lawyer
State

Hon'ble Shri Justice Ram Prasanna Sharma

CAV Judgment

1. This appeal is preferred against the judgment dated 9-3-2011 passed by the Special Judge (Schedule Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989), Raipur (CG) in Special Session Case No. 23 of 2010 wherein the said Court has convicted the appellant for the commission of offence under Sections 454 and 354 of IPC, 1860 and sentenced him to undergo RI for six months

and fine of Rs.200/- on each count with default stipulations. Both sentences are directed to run concurrently

2. In the present case, prosecutrix is PW/1. As per version of prosecution, on the date of incident i.e., 12-1-2010 at about 4.05 pm., in the evening prosecutrix was preparing her hair in the house where appellant entered and tried to catch hold her forcefully and pulled her clothes (saree). Prosecutrix was alarming the sound and after hearing the sound of prosecutrix, witnesses reached to the spot and appellant ran away. The matter was reposed and investigated. After completion of trial, the trial Court convicted and sentenced the appellant as aforementioned.

4 Learned counsel for the appellants would submit as under:

- i) Version of prosecutrix is not supported by version of independent witnesses.
- ii Illicit relationship between prosecutrix and Tulsi Nirmalkar is seen by the appellant, therefore, FIR is lodged against the appellant.
- iii) The trial Court has failed to appreciate the version of interested witnesses and version of prosecutrix and other witnesses is full of

contradictions and omissions.

- iv) The trial court has not evaluated the evidence in its true perspective, therefore, finding of the trial court is liable to be set aside.

5 On the other hand, learned counsel for the respondent would submit that the finding of the trial Court is based on proper marshaling of the evidence and the same is not liable to be interfered while invoking the jurisdiction of the appeal.

6. I have heard learned counsel for the parties and perused record of the court below in which impugned judgment is passed.

7. In the present case, date of incident is 12-1-2010. Report was lodged on the same day at Police Station Mandir Hasoud naming the appellant as culprit and his act of outraging modesty of prosecutrix is also mentioned in the said FIR. There is no delay in lodging the FIR. Prosecutrix (PW/1) deposed before the trial court that she was preparing her hair at about 5.00 pm in the evening in her house where appellant entered into her house, put her hair in his hand and dragged her inside the house, made her lay down on the bed and asked her to remove her clothes and asked for forcible rape. This witness denied the appellant, thereafter appellant tried to assault her and due to her

cries one Tulsi Nirmalkar and some other person reached there and thereafter they assaulted the deceased and dragged him outside the house. Version of this witness is supported by version of PW/2 Sahasram Dhruv who is father of the prosecutrix to whom prosecutrix informed about the incident. Again, it is supported by version of Dr. K.S. Rai (PW/3) who examined the prosecutrix and found swelling on left side of her throat measuring 1cm x 1 cm caused by hard and blunt object which was caused within 12 – 24 hours of the examination. Medical examination was done by the said Doctor on 13-1-2010 i.e., after one day of the incident. All these witnesses have been subjected to searching cross examination, but nothing could be elicited in favour of defence. There is nothing on record that the appellant has been roped in false charge and there is nothing on record to disbelieve the testimonies of prosecutrix and other witnesses. It cannot be said that the appellant is roped on account of grudge or otherwise, therefore, version of prosecutrix inspires confidence and for proving the offence no corroboration is necessary but there is ample corroboration of evidence against the appellant in the present case. In view of the above, argument advanced on behalf of the appellant is not sustainable. The act of the appellant falls within Sections 454 and 354 of IPC for which the trial court convicted him and same is hereby affirmed. The trial court awarded sentence of six months on each court

which cannot be termed as harsh, disproportionate and unreasonable. Sentence part is also not liable to be interfered with.

8. Accordingly, the appeal being devoid of merit is liable to be and is hereby dismissed. As per report of concerned jail authorities, Durg, in compliance of non-bailable warrant issued by this court on 11-12-2019, the appellant was arrested on 21-1-2020, produced before the Court of Special Judge and thereafter he was sent to jail therefore, no further order for his arrest etc., is required.

Sd/-

(Ram Prasanna Sharma)

Judge

Raju