

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 399 of 2009

1. Sukhram S/o. Kharulha, aged 36 years,
2. Gaffuran S/o. Kaachi Das, aged about 50 years,
Both resident of Village Sakhooli, P.S. Dhourpur, District Sarguja,
CG.

---- Applicants

Versus

- State of Chhattisgarh through District Magistrate, Ambikapur, CG.

---- Respondent

For Applicants	: Shri Rishi Rahul Soni, Advocate
For State/Respondent	: Shri Anand Verma, Dy. GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

27.11.2020

The case of the prosecution goes to show that on 05.09.2007 at about 5.30 PM when prosecutrix (PW-1) had gone to the field for grazing cattle, both the accused/applicants approached her and saying that they would outrage her modesty, accused/Sukhram caught hold of her hand and dragged towards the jungle. The accused Gaffuran also caught hold of her hand. Thereafter the accused/Sukhram lifted the prosecutrix on his shoulders and started towards the jungle, followed by the other accused Gaffuran. When the prosecutrix raised cries for safety, both the accused/applicants threatened her to be done away with. On the basis of this report offence under Sections 354 and 506/34 IPC was registered against both of them followed by filing of charge-sheet and framing of charge accordingly.

2. Learned Magistrate vide judgment dated 07.01.2009 passed in Criminal Case No. 141/2007 found the guilt of the accused/applicants duly proved under Sections 354 and 506-II r/w 34 IPC and imposed the

sentence of 9 months of RI with fine of Rs. 50/- u/s 354 and 6 months of RI with fine of Rs. 50/- u/s 506-II IPC. The findings recorded by learned Magistrate came to be confirmed by the judgment impugned dated 12.08.2009 passed in Criminal Appeal No. 05/2009 in its entirety. Hence this revision.

3. Counsel for the accused/applicants submits that while holding the accused/applicants guilty under Sections 354 and 506-II IPC, both the Courts below have not appreciated the evidence of the witnesses including the prosecutrix (PW-1) in its proper perspective and therefore, the judgment impugned is liable to be set aside. State counsel however, supports the judgment impugned.

4. From the evidence of prosecutrix (PW-1), it is revealed that on the date of incident when she had gone to the field for grazing cattle, both the accused/applicants met her, lifted her away inside the jungle and on crises being raised by her, they even threatened her of being done away with. She has stated that as the witness Bhole Aagariya (PW-5) had suddenly appeared on the scene and asked the accused/applicants to leave her safe, they dropped her and subsequently she reached her house. She has further stated that while resisting the act of the accused/applicants, bangles worn by her were broken and the blouse torn. PW-4 namely Rajinder – the husband of the prosecutrix has also reiterated the things as stated by the prosecutrix which were narrated by her after she reached home. PW-2 Juwaro Bai – the mother-in-law of the prosecutrix has stated that though she did not see the incident yet the prosecutrix informed her about the incident in detail and that the blouse worn by her was torn and the bangles broken. Bhole Aagariya (PW-5) is the witness who had rescued the prosecutrix from the clutches of the accused/applicants has also duly supported the case of the prosecution stating that he saw the accused/applicants lifting her away towards jungle and on being asked by

him they dropped her down. Investigating Officer has also supported the case of the prosecution.

5. The aforesaid factual analysis thus shows the complete involvement of the accused/applicants in taking away the prosecutrix towards jungle by lifting her on their shoulders and on resistance being made they even threatened her of being killed, the offences under Sections 354 and 506-II/34 IPC are duly made out against them. Thus both the Courts below do not appear to have committed any error of law in holding both of them guilty as referred to above. Their conviction is thus upheld.

6. As regards sentence, keeping in mind the facts and circumstances of the case and that the accused/applicants have remained behind the bars from 12.08.2009 to 20.10.2009, and that the incident had occurred in the year 2007, no useful purpose would be served in again dispatching them to jail. Thus the interest of justice would be served if the sentence imposed of them is reduced to the period already undergone. Order accordingly.

7. Revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan