

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 631 of 2001**

1. Silwestar Bada, S/o- Markus Bada, Aged about- 40 years,
 2. Naveen Lakra, S/o- Benzamin Lakra, Aged about- 35 years,
- Both appellants are R/o- Village- Haldimunda, P.S.H.- Tapkara,
Tahsil- Kunkuri, District- Jashpurnagar (C.G.)

---- Appellants**Versus**

- State of Chhattisgarh, through- P.S.H. Officer, P.S.H.- Tapkara,
District- Jashpurnagar (C.G.)

---- Respondent

For Appellants : Smt. Meena Shastri, Advocate.

For State/Respondent : Shri Afroj Khan, Panel Lawyer.

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment on Board****07/01/2020**

1. This appeal is preferred against the judgment dated 4th July, 2001 passed by Additional Sessions Judge, Jashpur (C.G.) in Sessions Trial No. 110/2000 wherein the said Court convicted both the appellants for commission of offence under Sections 456, 354 and 324 of IPC, 1860 and sentenced them to undergo R.I. for six months and fine of Rs. 200/-, R.I. for six months and R.I. for six months respectively with default stipulations. All the sentences shall run concurrently.
2. As per version of the prosecution, the victim was sleeping in her house situated at village- Haldimunda in the intervening night of 17th and 18th March, 2000, where both the appellants entered into her house and they tried to outrage modesty of the prosecutrix. The bangles were broken when the victim tried to rescue herself and she sustained injury on that count. Matter was reported and

investigated and after completion of investigation, appellants were charge-sheeted and convicted as mentioned above.

3. Learned counsel for the appellants submits that there is animosity between the appellants and the victim and independent witnesses have not supported the version of the prosecution, therefore, case of the prosecution is doubtful. The trial Court has failed to evaluate the exaggerated statement of the prosecution witnesses which indicates towards false implication, but the trial Court has not evaluated the entire evidence in its right perspective, therefore, conviction and sentence awarded by the trial Court may be set aside.
4. On the other hand, learned counsel for the State submits that finding of the trial Court is based on proper marshaling of evidence which is not required to be quashed while invoking jurisdiction of appeal.
5. I have heard learned counsel for the parties and perused the record of the Court below wherein judgment has been passed.
6. Prosecutrix (PW-1) has deposed before the trial Court that both the appellants entered into her house and tried to caught her and outrage her modesty. Version of this witness is unrebutted during cross-examination. It is supported by version of Kalista Khes (PW-2), Shashikala Ekka (PW-3), Amarjeet Ekka (PW-4) and Sudheer Khes (PW-5). Version of these witnesses is again supported by version of Dr. Dusad Ram (PW-8) who examined the prosecutrix and noticed linear abrasion on her right wrist and above the palm. This witness has opined that injury

may be caused by broken of bangles. Though the defence witnesses Jageshwar Singh (DW-1) and Jeevanti Lakda (DW-2) deposed that there was animosity between the parties on account of theft case, but the fact remains that this evidence is not sufficient to rebut evidence adduced by the prosecution. Act of the appellants falls within mischief of Sections 456, 354 and 324 of IPC, 1860 and same is hereby affirmed.

7. Heard on point of sentence.
8. The incident took place about 20 years ago and there was no minimum sentence at time prevailing for offence under Section 354 of IPC, 1860 and jail sentence was not compulsory at the time of commission of offence under Sections 354 and 324 of IPC, 1860.
9. Appellants have suffered jail term for 11 days. In view of this Court, ends of justice would be served if the jail sentence awarded to appellants is reduced to period already undergone by them. Fine amount imposed on the appellants shall remain intact. It is ordered accordingly.
10. With these modifications, the appeal is partly allowed.

Sd/-
(Ram Prasanna Sharma)
Judge