

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No.212 of 2009**

Satyanarayan S/o. Motiram Chandra, aged about 22 years,
R/o. Ghoghri, Police Station Dabhra, District Janjgir-
Champa (CG)

---- Appellant**Versus**

State Of Chhattisgarh through District Magistrate, Janjgir-
Champa District Jangir-Champa (CG)

---- Respondent

For the Appellant : Shri Triveni Shankar Sahu, Advocate
For the Respondent/State : Shri Aman Kesharwani, Panel Lawyer

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment On Board****23.01.2020**

1. The appeal is preferred against judgment dated 13.02.2009 passed by Special Judge under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities), Act 1989 (for short 'the Act 1989'), Janjgir Champa (CG) in Special Session Case No.180/2008 wherein the said Court convicted the appellant for the commission of offence under Section 454 and 354 of the Indian Penal Code, 1860 and under Section 3(1)(xi) of the Act 1989 and sentenced him to undergo rigorous imprisonment for 01 year and to pay fine of Rs.1000/-; RI for 01 year and to pay fine of Rs.1000/- and RI for one year and to pay fine of Rs.1000/- respectively with default stipulation.

2. As per the version of the prosecution, on 26.3.2006 at about 5.00 PM when prosecutrix's parents went outside of their house

for some work, she was alone in the house and at that time, the appellant came there, asked the prosecutrix regarding whereabouts of her parents and when he came to know that her parents are not in the house, he caught hold her and tried to outrage her modesty. On raising the alarm by her, maternal grandfather of the prosecutrix, who accidentally came there, rushed to the spot and on seeing him, the appellant ran away from the spot. The matter was reported, investigated and the appellant was charge sheeted and convicted as mentioned above.

3. Learned counsel for the appellant submits as under:

(i) The story put forth by the prosecutrix itself create doubt about the prosecution case and there is no evidence to establish the charges under Section 454 IPC. There is nothing on record to substantiate the charge on the basis of the caste.

(ii) The trial Court has not evaluated the evidence properly, therefore, finding of the trial Court is liable to be set aside.

4. On the other hand, learned counsel for the State supporting the impugned judgment 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 with while invoking the jurisdiction of the appeal.

5. I have heard learned counsel for the parties and perused the judgment impugned.

6. From the evidence of the prosecutrix (PW-1), Heeralal (PW-3) and Uthara Kumar (PW-4), it is established that the appellant entered into the house of the prosecutrix, caught hold her hands and made her lie down on the floor. Version of these witnesses is unrebutted during cross-examination and there is nothing on record to say that these witnesses have falsely roped the appellant in the present case. Evidence of the prosecutrix and other witnesses inspire confidence, therefore, it cannot be said that there is material contradictions which affect the root of the prosecution case. Minor contradictions which do not go to the root of the case are insignificant and the same is not sufficient to discard the version of these witnesses. In view of the above, arguments advanced on behalf of the appellant regarding commission of offence under Sections 454 and 354 IPC is not sustainable. Conviction of the appellant for these two offences are not liable to be interfered with and the same is hereby affirmed.

7. There is nothing on record to prove that anything is committed on the basis of caste. The offence is committed because the prosecutrix is opposite sex and the offence is committed in advancement of sexual overtures, therefore, it cannot be said that the offence is committed on the basis of the caste and thereby charge under Section 3(1)(xi) of the Act 1989 is not established. Accordingly, the appellant is acquitted of the said

charges and his conviction and sentence for the above said offence is hereby set aside.

8. For the offence under Section 354 IPC, jail sentence was not compulsory on the date of incident. The appellant suffered jail term of seven days during investigation. In view of this fact, this Court is of the view that ends of justice would be met if the jail sentence awarded to the appellant for the commission of offence under Sections 454 and 354 IPC is reduced to the period already undergone by him. However, fine amount is increased for offence under Section 354 IPC and he is fined to pay Rs.2,000/-. In all the appellant has to pay fine of Rs.3000/- as fine. The appellant has already deposited Rs. 3,000/- as fine for the offences for which he was convicted by the trial Court , then he is not required to deposit any further sum.

9. With these modifications, the appeal is allowed in part.

Sd/-
(Ram Prasanna Sharma)
JUDGE