

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 598 of 2007

Order reserved on 06.08.2020

Judgment pronounced on 01.09.2020

Reman Das alias Reman Prasad Satnami, aged 33 years, R/o
Village Ghuksa, Police Station – Kawardha, District Kabirdham
(CG) --- Appellant

Versus

State of Chhattisgarh, through Station House Officer, Police Station
Kawardha, District Kabirdham (CG)

For Appellant	: Mr. Rajeev Shrivastava, Advocate.
For State	: Mr. H.S. Ahluwalia, Dy. AG.

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V. Judgment

Prosecutrix (PW-7) in this case – the mother of 5 children has alleged that on 16.02.2006 at about 7 PM when she had gone to school side for answering the call of nature, the accused/appellant came there, caught hold of her hand, threw her down in the ground and committed forcible sexual intercourse with her. It is further alleged that on hearing her cries, her sister-in-law Vimla Bai (PW-8), brother-in-law (PW-9) and Hari Prasad (PW-12) came to the spot and on seeing them all, the accused/appellant ran away therefrom. While running away, the accused/appellant is also alleged to have threatened the prosecutrix and her relatives present on the scene at the relevant time of being eliminated in case of any disclosure of the incident to anyone. Thereafter, at about 10:10 PM on the same day, she went to the police station along with her husband Ram Prasad (PW-10) and reported the matter to the police on the basis of which FIR (Ex.P-6) came to be registered against the accused/appellant under Sections 376 and 506-B IPC. Thereafter, she was sent for medical examination. After completion of investigation the charge-

sheet was filed against the accused/appellant under the same sections followed by framing of charge accordingly.

2. Learned Court below vide its judgment dated 29.06.2007 passed in Sessions Trial No.42/2006 acquitted the accused of the charge under Section 376 IPC but held him guilty under Sections 354 and 506-B IPC with imposition of sentence of RI for one year with fine of Rs.1000/- under Section 354 IPC and RI for 6 months with fine of Rs.1000/- under Section 506-B IPC, plus default stipulations.

3. Learned counsel for the accused/appellant submits that when on the same set of evidence the accused/appellant has been acquitted of the charge under Section 376 IPC he could not have been convicted under other sections particularly when no other evidence is there against him. He further submits that the evidence of the relatives of the prosecutrix being PW-8, PW-9 and PW-12 suffers from contradictions and omissions on material particulars and therefore also, his conviction under Sections 354 and 506-B IPC is liable to be set aside.

4. State counsel however supports the judgment impugned and submits that the findings recorded by the Court below are strictly based on the evidence adduced by the prosecution and therefore, the same cannot be interfered with in this appeal.

5. This Court has gone through the evidence of the prosecutrix (PW-7) and her relatives being PW-8, PW-9 and PW-12 with utmost care. Their version made before the Court particularly with respect to commission of rape on the prosecutrix by the accused/appellant appears to be highly exaggerated and therefore, the Court below

has rightly acquitted the accused/appellant under Section 376 IPC. However, the same witnesses referred to above have categorically stated that when they reached the spot on hearing the cries of the prosecutrix, the accused/appellant was lay on the prosecutrix and on seeing them he also threatened of being done away with in case of incident being disclosed to anyone else. Since the evidence of the prosecutrix as also her relatives being PW-8, PW-9 and PW-12 does not get corroboration from the medical evidence, his acquittal under Section 376 IPC is appropriate. However, the medical evidence goes to show bruises on both the hands of the prosecutrix which is indicative of the fact that when the accused/appellant tried to overpower her, she made a struggle to protect herself from the clutches of the accused and probably in the course of struggle the bruises have been caused on her hands. This apart, the version of the prosecutrix that in the struggle made by her to get rid of the accused/appellant the blouse worn by her was torn which also gets corroboration from the seizure made under Ex.P-14. The evidence of the prosecutrix as also that of PW-8, PW-9 and PW-12 consistently speaks of the intimidation made by the accused/appellant to cause their elimination in case of incident being disclosed to anyone and therefore, the conviction under Section 506-B is ultimately made out against him.

6. In sum and substance this Court is of the view that there is sufficient evidence to hold the accused/appellant guilty under Sections 354 and 506-B IPC and in doing so the Court below has not committed any illegality or irregularity. Accordingly, the conviction part of the judgment impugned being based on proper appreciation of the evidence of the witnesses is hereby maintained.

7. As regards sentence, the accused/appellant is said to have remained inside for 26 days and also keeping in mind the fact that the incident is quite old, it would not be proper to disturb his already settled family life by again sending him to jail after such a long lapse of time. In this view of the matter, the sentence imposed on the accused/appellant is reduced to the period already undergone.

8. Appeal thus allowed in part to the extent indicated above.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Ajay