

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 731 of 2011

Beni Kumar S/o Payare Lal, aged about 28 years, R/o. Village
Raseda, P.S. Baloda Bazar, District Raipur, CG.

---- Applicant

Versus

State of Chhattisgarh through District Magistrate Raipur, District
Raipur, CG.

---- Respondent

For Applicant : Mr. Hemant Gupta, Advocate

For State/Respondent : Mr. Anil Tripathi, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

05.04.2021

The finding of conviction and resultant sentence recorded by learned Magistrate 27.04.2010 have been approved in appeal also vide judgment impugned dated 12.12.2011. From the FIR (Ex.P-1) lodged by the prosecutrix (PW-1) it is apparent that on 12.01.2002 when she was returning after answering the call of nature, the accused/applicant came there from the canal side and with bad intention he caught hold of her hand and asked her to accompany him for bad work. This made her feel insulted and therefore after reaching home she told her husband about the act of the accused/applicant. On coming to know about the incident, the husband of the prosecutrix (PW-2) went to the accused/applicant but instead of admitting his mistake, the accused/applicant indulged in the scuffle with him. On the report of the prosecutrix, offences under Sections 354 and 323 IPC were registered leading to the filing of *challan* on conclusion of investigation.

2. Learned Magistrate vide judgment dated 27.04.2010 found the accused/applicant guilty under Sections 354 and 323 IPC and sentence

him to undergo RI for six months u/s 354 and three months u/s 323 IPC with certain fine. Learned lower appellate Court on appeal also approved the same as a whole. Hence this revision.

3. From the evidence of prosecutrix (PW-1) it is evident that on the date of incident when she was returning after answering the call of nature, the accused/applicant approached her from the canal side and with the bad intention he caught hold of her hand and also asked her to accompany him for bad work. Having felt humiliated she narrated the entire incident to her husband after reaching home. She has also stated that she also saw the accused/applicant scuffling with her husband when he had gone to him for making an inquiry about the incident. The evidence of PW-1 has been squarely corroborated by PW-2 as well. The evidence of doctor (PW-5) also corroborates the testimony of PW-2 and states that he noticed swelling on head, abrasion on the ring finger and the little finger as well. The injuries in respect of PW-2 are clearly mentioned in the medical report (Ex. P-5). Investigating officer has also supported the case of the prosecution.

4. From the aforesaid discussion of facts and evidences, the involvement of the accused/applicant in the crime in question is duly proved, and being so, his conviction u/s 354 IPC for outraging the modesty of the prosecutrix by catching hold of her hand and asking her to accompanying him for bad work is duly established. Similarly, the injuries suffered by PW-2 in the course of scuffle between him and the accused is also proved. Thus the conviction of the accused/applicant under both the Sections is hereby affirmed.

5. As regards sentence, keeping in mind the facts and circumstances of the case and that the accused/applicant has remained behind the bars for about a month, and that the incident had occurred in the year 2002, no

useful purpose would be served in again dispatching him to jail. Thus the interest of justice would be served if the sentence imposed on him is reduced to the period already undergone. Order accordingly.

6. Revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan