

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 354 of 2010

Dilip Kumar Dewangan S/o. Gangu Ram Dewangan, aged about 35 years, R/. Ward No. 12, Rawanbhatha, Mahasamund District Mahasamund (CG)

---- Applicant

Versus

State of Chhattisgarh, Through Station House Officer, Police Station Mahasamund District Mahasamund (C.G.)

---- Respondent

For Applicant : Mr. Ajay Chandra, Advocate
For Respondent : Mr. Anand Verma, Dy. GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 04.03.2021

The charge against the accused/applicant and other accused persons was under Sections 384 and 386 IPC for allegedly committing extortion from the complainant (PW-2) putting him under fear of making the photograph of his wife and sister viral. On 13.07.2009 also some unknown person made a call on the mobile No. 9406042484 which belonged to the complainant herein. The said call was made from mobile No. 9753054857 which originally belonged to Mithun (PW-4) but it had gone missing and the report to that effect was also lodged. When the demand for money continued, ultimately the report was made by the complainant and after making a plan, the police party proceeded to the forest as per the location found out by the police. The complainant was first asked to remain on the front and the police people went in hiding in the bushes. When the complainant reached nearer, the present

applicant came out from the bushes wrapping his face with the scarf and then the complainant gave him the amount so demanded. Since the other accused persons did not appear to be involved in the incident, they were acquitted by the trial court but the accused/applicant herein was convicted under Section 384 and 386 IPC and sentenced to undergo RI for two years with fine of Rs. 100/- on each count. The said finding of the trial Court got approved in appeal also by way of judgment under challenge in this revision dated 07.07.2010.

2. From the evidence of the witnesses including the complainant no specific allegation appears to have been made against the persons acquitted by the Courts below and therefore, this Court does not concede to the submissions of the counsel for the applicant for parity to the applicant with them. The evidence of PW-1 and PW-2 proves that under Ex.P-1 a mobile handset and cash of Rs. 50,000/- plus one motorcycle was made from the accused/applicant himself. Evidence of PW-2, PW-3, PW-6 and PW-7 also makes it clear that it is the accused/applicant herein who came out from the bushes and took money from the complainant. The evidence also discloses that the present applicant worked as driver of the complainant and therefore, the possibility of having knowledge of his personal affairs resulting in extortion cannot be ruled out. Both the Courts below by a detailed decision has rightly convicted the applicant under Sections 384 and 386 IPC which does not seem to be incorrect in any manner whatsoever. The allegation against the applicant are quite distinct from the acquitted ones and

therefore, he has no mouth to claim parity. His conviction is therefore, maintained.

3. As regards sentence, considering the fact that the incident had occurred in the year 2009 and since then considerable period has passed by and further that the accused/applicant has remained in jail for about one year, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone. Order accordingly.

4. Revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)
JUDGE