

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 18 of 2012

Rakesh Sonwani, S/o Sevak Ram Sonwani, aged about 22 years,
R/o Village Amera, PS Pallari, District Raipur (CG).

---- Applicant.

Versus

State of Chhattisgarh through District Magistrate Raipur, District
Raipur (CG)

--- Respondent.

For Applicant	:	Mr. Hemant Gupta, Adv. and Mr. Arun Shukla (through Legal Aid), Adv.
For Respondent	:	Mr. Anil Tripathi, PL.

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

01.04.2021

FIR (Ex.P-2) registered on the basis of written complainant (Ex. P-1) given by the prosecutrix (PW-1) it appears that on 19.06.2008 at about 8 PM when the prosecutrix was breastfeeding her child, the accused/applicant came there and with intention to outrage her modesty he pulled off her hands. However, when the prosecutrix raised an alarm he left the spot. On hearing the noise of the prosecutrix, her sister-in-law (PW-3) who was in the kitchen came there and saw her bangles broken and blood was coming out of her hands. Thereafter, the prosecutrix told about the act of the accused/applicant. On hearing the cries raised by the prosecutrix and her child, her mother-in-law and husband who were present in the hotel also came to their house and were told by the prosecutrix that the accused/applicant had entered the house with intention to outrage her modesty and tried to drag her by catching hold of her hand. The offence was registered under Sections 451, 354 and 323 of IPC and after investigation charge was also filed under the same sections. However, charge was framed under Sections 354, 323 and 456 IPC.

2. Learned Magistrate vide judgment dated 27.01.2010 convicted the accused/applicant under Sections 456, 354 and 323 IPC and sentenced

him undergo SI for 3 months under Section 456, SI for 5 months under Section 354 & SI for 3 months under Section 323 IPC with fine of Rs.300/- on each count, plus default stipulation. On appeal, the same has also received affirmation vide judgment impugned dated 30.12.2011.

3. Heard counsel for the parties and perused the material on record.

4. The evidence of the prosecutrix (PW-1) goes to show that on the date of incident at about 8 PM when she was breastfeeding her child, the accused/applicant came there and with an intention to outrage her modesty he tried to pull her up by hands however, on hue and cry being raised by the prosecutrix the accused/applicant ran away. It has also come in her evidence that while making resistance to the act of the accused/applicant, her bangles were broken and as a result thereof her hands also started bleeding. Likewise, if a composite analysis of evidence of PW-2, PW-3 and PW-4 is made, it is apparent that on hearing cries raised by the prosecutrix and her child, they reached the place where the prosecutrix was present and saw that her hand was bleeding and thereafter the prosecutrix apprised them of the accused/applicant that while she was breastfeeding the child, he entered in her house and tried to outrage her modesty by pulling off her hands. Doctor (PW-6) who medically examined the prosecutrix has also informed that she noticed abrasion on her right palm and the said injury was simple in nature. Investigating Officer (PW-5) also stood by the prosecutrix.

5. Thus there is sufficient evidence to hold that the prosecutrix/applicant on the fateful day entered the house of the prosecutrix in the night hour with intention to outrage her modesty therefore, both the Courts below have not committed any illegality or infirmity in holding the accused/applicant guilty for the offences as referred to above. Conviction is therefore, maintained.

6. As regard sentence, keeping in view the fact that incident had taken place in the year 2008 and that a quite long period has rolled by since then, and further that he had already been inside for 10 days, this Court thinks it just and proper to reduce the sentence imposed on the accused/applicant to the period already undergone. Order accordingly.

7. Revision thus partly allowed.

Sd/-
(Vimla Singh Kapoor)

Judge

Jyotishi/Ajay