

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No.427 of 2010**

- Jeet Kumar @ Sonpuriha, S/o Bhagwan Das, aged about 25 years, R/o Village Kot, PS & Tahsil - Baikunthpur, District – Korea, Chhattisgarh

---- Applicant**Versus**

- State of Chhattisgarh, Through District Magistrate, Police Station : Baikunthpur, District – Korea, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Anil Gulati, Advocate
For Respondent	:	Mr. Sameer Sharma, Dy. G.A.

Hon'ble Smt. Justice Vimla Singh Kapoor**Order on board****04.02.2021**

The FIR (Ex-P/1) lodged by the prosecutrix (PW-3) on 09.09.2008 goes to show that on 07.09.2008 at about 9.00 p.m., when she along with her sister-in-law Daiyya (PW-1) was making bed in the shop, the accused-applicant suddenly appeared there and by catching hold of her arm started dragging her towards the road. On this, she and her sister-in-law both started raising hue and cry and thus attracted the attention of her family members to the scene. On the basis of FIR offence under Section 354 IPC was registered against the accused-applicant and after completion of investigation charge-sheet was filed and charges were also framed under that section.

2. Learned Magistrate vide judgment impugned dated 15.12.2009 passed in Criminal Case No.04/2009 convicted the

accused-applicant under Section 354 IPC and imposed on him the sentence of RI for one year and to pay fine of Rs.1000/- + default stipulation. Learned Lower Appellate Court vide judgment impugned dated 17.08.2010 passed in Criminal Appeal No.95/2009 halved the sentence to the extent of R.I. for six months and fine of Rs.500/-, plus default stipulation. Hence this revision.

3. Having toiled a lot to argue the case on merits learned counsel for the accused-applicant eventually made a concessional argument for reducing his sentence to the period already undergone in case this Court does not find any force on merit of the case.

4. State counsel on the other hand supported the judgment impugned.

5. Evidence of prosecutrix (PW-3) goes to show that on 07.09.2008 at about 9.00 p.m. when she was busy in making bed in the shop in presence of her sister-in-law Daiyya (PW-1), the accused-applicant came from behind, caught hold of her hands and started dragging her towards the road with an intention to outrage her modesty. The incident was witnessed by Daiyya (PW-1) who was very much present on the spot in the company of the prosecutrix. Even PW-1 also had raised an alarm for rescue. On hearing noisy sound her mother-in-law (not examined) had also come to the spot. Husband of the prosecutrix (PW-2) namely Kunjbihari at the relevant time had gone to answer the call of nature, has categorically stated that while he was getting back home, he heard the cries of his wife and having reached home she

had informed him about the act of the accused-applicant, where he had caught hold of her arm and started moving her towards the road. His wife is also stated to have told him that in the process of struggle to get out from the clutches of the accused-applicant her arm had also got twisted. The act of the accused-applicant of holding the arm of the prosecutrix (PW-3) and making an attempt to drag her towards the road that too in an odd hours makes it explicit that he had done so with an intention to outrage her modesty, as no reasonable explanation worth acceptance has been offered by him in his defence. The evidence of prosecutrix (PW-3), Daiyya (PW-1) and Kunjbihari (PW-2) is quite consistent and therefore the findings reached on the basis of the same cannot be said to be suffering from any legal flaw. The conviction of the accused-applicant under Section 354 IPC is hereby maintained.

6. However looking to the fact that the incident had taken place in the year 2010 and that the accused-applicant has already remained in detention for about ten days, interest of justice would be served if the substantive sentence imposed on this applicant is reduced to the period already undergone. However, the fine ordered by learned Magistrate amounting to Rs.1000/- will hold the ground and not that of the Sessions Court reducing it to Rs.500/-.

7. The revision is thus allowed in part.

Sd/-
(Vimla Singh Kapoor)
Judge