

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No.539 of 2010**

- Maandhar @ Mandhar S/o Somaru, aged about 25 years, R/o Chote Morathpal, PS Frezarpur, District Bastar, Chhattisgarh

---- Applicant**Versus**

- State of Chhattisgarh, Through District Magistrate, Jagdalpur, District – Bastar, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Vikash Shrivastava, Advocate
For Respondent	:	Mr. Anand Verma, Dy. G.A.

Hon'ble Smt. Justice Vimla Singh Kapoor**Order on board****12.02.2021**

The incident is said to have occurred on 20.04.2009 in the midnight when prosecutrix (PW-6) was in her house along with her children and her husband had gone to Dantewada. It is alleged that on that night when she came out of her house to answer the call of nature, the accused-applicant had entered her house unnoticed. After the prosecutrix got back inside the house, the accused/applicant caught hold of her hand with an intention to outrage her modesty and that on hearing her cries Butiram (PW-2) and Samdas (PW-3) came to the spot. The applicant was even tied but he somehow wriggled out of their clutches. Next day the *Panchayat* meeting was convened but the accused-applicant did not attend the same. Subsequently, FIR (Ex-P/5) came to be lodged against the accused-applicant based on which the offence

under Sections 354 and 456 IPC was registered and the investigation carried out resulted in filing of the charge-sheet and framing of charges accordingly.

2 Learned Magistrate vide judgment impugned dated 11.05.2010 passed in Criminal Case No.49/2010 found the accused/applicant guilty under Sections 354 and 456 IPC and imposed on him the sentence of R.I. for six months with fine of Rs. 300/- under Section 354 and R.I. for six months with fine of Rs.200/- under Section 456 IPC plus default stipulations. The said findings came to be confirmed in appeal also vide judgment impugned dated 28.09.2010 passed in Criminal Appeal No.17/2010. Hence this revision.

3. Counsel for the accused-applicant first of all put forth his case on merits but subsequently he turned his prayer to the confinement of sentence part of the judgment impugned alone on the submission that looking to the period spent by the accused-applicant inside, the sentence imposed on him should be treated to be suffice and the same may be reduced to the period already undergone.

4. State counsel however supports the judgment of both the Courts below.

5. Prosecutrix (PW-6) has categorically put forth the ordeal faced by her on the fateful night stating that when she had come out of her house to answer the call of nature in the midnight, the accused-applicant managed to get into her house and after she came back, he caught hold of her hands with an intention to

outrage her modesty. In spite of the resistance offered by the prosecutrix the accused/applicant did not leave her and subsequently on hearing the hue and cry raised by her, Butiram (PW-2) and Samdas (PW-3) came to the spot and saw the accused-applicant present there. Though they tried to tie the accused-applicant but somehow he managed to flee from the spot. Samdas (PW-3) was even tooth bitten by the accused/applicant. Butiram (PW-2), Samdas (PW-3) and Gadadhar (PW-4) have categorically corroborated the version of the prosecutrix. Samdas (PW-3) has turned hostile on the point of seizure. Gadadhar (PW-4) who had reached the spot on being told about the incident by his uncle and saw the accused/applicant in the house of the prosecutrix. The record suggests the convening of the *Panchayat* meeting on the next day of incident, but the accused-applicant did not attend the same. Dr. V.K. Jha (PW-7) is the doctor who medically examined the prosecutrix (PW-6) and Samdas (PW-3) and gave his report Ex-P/7 and Ex-P/8, mentioning the injuries noticed by both of them though simple in nature. The material collected by the prosecution fully establishes the act of the accused-applicant where he had entered the house of the prosecutrix unnoticed and on her arrival back he caught hold of her hands with an intention to outrage her modesty and did not listen to her request to leave her. In the struggle which went on between the accused and the prosecutrix the bangles worn by her also stated to have got broken. Evidence of prosecutrix (PW-6) also gets corroborated from the testimony of Butiram (PW-2), Samdas (PW-3), Gadadhar (PW-4) and Dr. V.K. Jha (PW-7). Under these

circumstances, the judgment impugned as far as it relates to conviction of the accused/applicant under Sections 354 and 456 IPC appears to be based on the fully trust worthy testimony of PW-6 duly corroborated by Butiram (PW-2), Samdas (PW-3) and Gadadhar (PW-4) and therefore this Court does not see any reason to take a view contrary to the one already taken by both the Courts below by way of concurrent findings. Accordingly, the conviction of the accused-applicant under Sections 354 and 456 IPC is hereby maintained.

6. As regards sentence, considering that the incident had taken place about ten years back and that the accused-applicant had already faced a long drawn prosecution since then and further that he already remained inside for about three weeks, this Court is of the opinion that no useful purpose would be served in again sending him to jail, and being so the sentence imposed on him deserves to be reduced to the period already undergone. Order accordingly.

7. The revision is thus allowed in part to the extent indicated above.

Sd/-
(Vimla Singh Kapoor)
Judge