

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 96 of 2012

Khemraj Sahu, aged about 35 years, S/o. Ashanta Ram, R/o. Village – Girra, P.S. Pallari, District Raipur, (Now Baloda-Bazar) CG.

---- Applicant

Versus

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

---- Respondent

For Applicant : Shri Hemant Gupta, Advocate

For State/Respondent : Shri Vikram Sharma, Dy. GA

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

31/03/2021

The deaf and dumb prosecutrix (PW-6) had come to the house of her elder sister Pushpa Bai (PW-1). On 06.12.2006 at about 11 AM the accused/applicant came to the house of PW-1 and asked PW-6 as to the whereabouts of the other inmates. Prosecutrix is said to have told the accused/applicant through gestures that her sister (PW-1) had been to the field whereas her mother-in-law (PW-4) had been to the pond for bath. Thus finding the prosecutrix alone, the accused/applicant caught hold of her hands, threw her down and with an intention to outrage her modesty, lay over her. As the prosecutrix kicked him off, he ran away therefrom. After arrival of PW-1, the prosecutrix informed her about the incident who then went to the police station and lodged the report (Ex.P-1) on the basis of which offence under Section 354 IPC was registered against the accused/applicant.

2. After the charge being framed, learned Magistrate by judgment dated 29.03.2010 convicted the accused/applicant under Section 354 IPC and sentenced him to undergo RI for six months and also imposed the

fine. In appeal also the view of the Magistrate remained as it is vide judgment impugned dated 24.01.2012.

3. Heard counsel for the parties and perused the material available on record. The evidence of prosecutrix (PW-6) recorded through her sister (PW-1) who was supposed to be acquainted with her gesticulations, goes to show that on the date of incident when she had been to the field and her mother-in-law to the pond, accused/applicant came to her house, made an enquiry from the prosecutrix about the inmates, and on finding that she was all alone in her house, he nurtured an evil thought of outraging her modesty and while doing so he caught hold of her hands and mounted over her. Evidence of Mohanlal Sahu (PW-2) also goes to show that he saw the accused/applicant coming out of the house of PW-1 followed by the prosecutrix. From the evidence of other witnesses such as PW-3 and PW-5 also it is apparent that the prosecutrix was weeping, but they did not disclose the reason therefor. The evidence of the prosecutrix and her sister does not indicate any reason for false implication of the accused/applicant. Why a deaf and dumb lady who had been the guest of PW-1 would implicate the accused/applicant, is not disclosed by the defence and thus this Court does not find any reason to disbelieve her testimony. The truthfulness of the prosecutrix (PW-6) and her sister (PW-1) cannot be doubted. Both the Courts below have been fully justified in holding the accused/applicant guilty under Section 354 IPC, which is maintained by this Court as well in this revision.

4. The compensation ordered by learned Magistrate and approved by learned lower appellate Court remains undisturbed here also. However, the sentence imposed on the accused/applicant needs some reduction as a sufficient time span has gone by since the occurrence. Accused/applicant has also remained in jail for about a fortnight and faced the music for his misdeeds. The interest of justice would be served if the

reduction of sentence to the period already undergone is extended to the accused/applicant by this Court so that his family members are not exposed to the risk outside. Ordered accordingly.

5. Revision is thus allowed in part.

Sd/-

(Vimla Singh Kapoor)

Judge

Jyotishi/Pawan