

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 300 of 2014

Mithlesh Verma S/o. Ramchandra Verma, aged about 27 years,
R/o. Baloda Shivani, P.S. Kharora, Raipur District Raipur (CG)

---- **Applicant**

Versus

State of Chhattisgarh, Through the Collector Raipur District
Raipur (C.G.)

---- **Respondent**

For Applicant : Mrs. Ranjana Jaiswal, Advocate
For Respondent : Mr. Ishwar Jaiswal, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 05.02.2021

Case of the prosecution in brief is that on 27.09.2007 at about 11.00 PM, in the night the accused/applicant entered in the room and switched off the light where victim (PW-1) was sleeping with her son. It is alleged that while the applicant was getting on the cot, his leg hit on the mouth of the son of the victim and he started crying. Thereafter, the victim woke up and pushed the applicant forcible from the bed and switched on the light and saw that it was the applicant and shouted for help then her father-in-law and mother-in-law came there thereafter the applicant fled from there. On the next day, on returning of her husband, she made a written complainant (Ex.P-2) in police Station and on the basis of which FIR (Ex.P-1) was registered under Sections 456 and 356 IPC. After completion of

investigation, charge sheet was filed against the applicant in the same sections.

2. By the judgment dated 30.01.2013 learned trial Court convicted the accused/applicant under Section 456 and 354 IPC and imposed the sentence of SI for 7 months and to pay fine of Rs. 200/- u/s. 456 IPC, SI for 7 months and to pay fine of Rs. 200/- u/s. 354 IPC, plus default stipulation. Learned lower appellate Court also confirmed the findings recorded by learned Magistrate in its entirety. Hence these revision petitions.

3. Counsel for the accused/applicant apart from vehemently arguing his case makes an alternative prayer that if his submissions do not yield any positive result on conviction part of the judgment impugned, keeping in mind the fact that the accused/applicant has already faced a lot for his misdeeds and remained inside for about one and half month, the sentence imposed on him may be reduced to the period already undergone.

4. State counsel however supports the judgment impugned and submits that the concurrent findings of fact recorded by both the Courts below being well grounded and well founded do not call for any disturbance in these revisions.

5. Heard learned counsel for the parties and perused the judgment impugned and the evidence available on record carefully.

6. From the statement of the prosecutrix (PW-1), in which she has stated that on the date of incident at about 11. 00 PM in the night, while she was sleeping in her house, the applicant came and switched off the light and while getting on the cot, the leg of the applicant touched in the mouth of her son then he started crying and then the applicant used criminal force to outrage her modesty. Thereafter, she woke and pushed the applicant from her bed. She has also stated that when she shouted for help, her father-in-law and mother-in-law came on the spot and tried to catch him, then he fled from there. The commission of alleged offence by the applicant established on the basis of the statement of Up-Sarpanch namely Shiv Kumar Verma (PW-2) whom the husband of the victim had disclosed the incident, Ketkibai (PW-4) mother-in-law of the victim (PW-1), from their statements, it is evident that on the date of incident the accused/applicant committed a house trespass in the night hours in order to outrage her modesty, and therefore, the findings of conviction recorded by both the Courts below appear to be fully justified. It is hereby maintained.

7. As regards sentence, keeping in view the fact that the incident had taken place in the year 2007, that the accused/applicant has already remained in jail for a period of about one and half month and further that by now he must be leading a well settled life saddled with innumerable responsibilities, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone. Order accordingly.

8. With the above, the revision stands allowed in part.

Sd/-
(Vimla Singh Kapoor)
JUDGE

Santosh