

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 598 of 2011

Ajit Kumar Kaiwartya, aged 26 years, S/o Santulal Kaiwartya, Sakin
– Lalkhadan, Mahmand Road Par, PS Torwa, District Bilaspur (CG)

---- Applicant.

Versus

State of CG through PS Torwa , District Bilaspur (CG)

--- Respondent.

For Applicant : Mr. Krishna Kumar Khatri, Adv.

For Respondent : Mr. Ashish Tiwari, GA.

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

31/03/2021

The allegation made against the accused/applicant is that on 21.10.2007 at about 7:30 PM when she along with her 3 year old female child had gone to watch Dussehra procession, the accused/applicant came there from behind and patted and pinched at her back. On the same being objected to by the prosecutrix (PW-1) he caught hold of her hair and pulled her by the string around her neck. When the prosecutrix got back, the accused/applicant again followed her and caught hold of her hand. This time also he caught hold of her hand and on objection being raised he threatened her of doing away with. He is also alleged to have manhandled her by beating with hands and fists. On the information given by her the same day to the police, the offences under Sections 294, 506, 323 and 354 IPC were registered followed by *Challan* being filed.

2. Learned Magistrate vide judgment dated 24.06.2011 found the accused/applicant guilty under Sections 354 and 323 IPC by imposing the sentence of RI for six months and pay fine of Rs.500/-

under Section 354 and to pay fine of Rs.500/- under Section 323 IPC, plus default stipulation. The same got affirmed in appeal as well by the judgment impugned dated 28.09.2011.

3. Heard counsel for the parties and perused the material on record. Prosecutrix (PW-1) has stuck to her statement right from the beginning up-to the cross-examination that on the date of incident when she had gone to watch the Dussehra procession with her 3 year old female child in her lap, the accused/applicant came from behind and patted her back. He is also stated to pulled her by hair. When the prosecutrix left the spot for home, the accused/applicant followed her and again caught hold of her hands. On objection being raised by her, he put her under threat of life, abused badly and thrashed her with the hands and fists. The accused/applicant is also stated to have told the prosecutrix to do something bad with her. The incident of scuffle between the accused and the prosecutrix has been witnessed by Dukhiram (PW-2), Umabai (PW-3), Tarna (PW-4) and Munnibai (PW-5) and they all too have remained firmed in their testimony right from the beginning. Doctor (PW-7) who medically examined the prosecutrix and gave his report (Ex.P-2) has stated that there was an injury on the back side of her neck though simple in nature, seemingly caused by some sharp and pointed object. No reason has been attributed by the prosecution as to why the prosecutrix would rope the accused in a false case as none of the witnesses has stated about any old standing enmity between the two.

4. In aforesaid view of the matter, this Court does not find any illegality or irregularity so as to interfere with the well written finding of conviction, therefore the same is hereby maintained.

5. Long drawn litigation being faced by the accused/applicant and the resultant detention in jail for about 3 weeks however persuades this Court to reduce the sentence imposed on the accused/applicant to the period already undergone so that his well set-up life is not upset. Order accordingly.

6. Revision thus partly allowed.

**Sd/-
(Vimla Singh Kapoor)**

Judge

Jyotishi/Ajay