

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 421 of 2009**Judgment reserved on 26.11.2020Judgment pronounced on 21.01.2021

- Punniram S/o Daduwa Ram Chandrawanshi, aged about 28 years, R/o Vill. Ramhepurkhurd, PS Bodla, Tah. Kawardha, District – Kabirdham, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, through District Magistrate, Kawardha, District Kabirdham, C.G.

---- Respondent

For Applicant	: Shri. Shailesh Tiwari, Advocate on behalf of Shri Sourabh Sharma, Adv.
For State/Respondent	: Shri. Sameer Sharma, Dy. G.A.

Hon'ble Smt. Justice Vimla Singh Kapoor**CAV Judgment**

The case of the prosecution in brief is that on 08.01.2008, at about 5.00 p.m. when prosecutrix (PW-1) was returning after harvesting the *arhar* crop, the accused/applicant came from behind, caught hold off both her hands and asked her to sit on the ground. It is alleged that when prosecutrix called out her father-in-law, the accused-applicant left the spot putting her under threat of not making any disclosure of incident to anyone else. Thereafter, she came to her house and after the arrival of her husband, she disclosed the incident to him and on the next day FIR (Ex-P/1) came to be lodged, on the basis of which offences under Sections 354 and

506 of IPC were registered against him. After investigation, the *challan* was filed by framing of charges for the same offence referred to in the FIR.

2. Learned Magistrate vide its judgment dated 21.01.2009 acquitted the accused-applicant of the charge under Section 506 but convicted him under Section 354 IPC and sentenced him to undergo R.I. for six months and to pay fine of Rs.1000/- plus default stipulation. The findings recorded by learned Magistrate has specifically being affirmed by the lower Appellate Court vide judgment dated 28.08.2009 passed in CRA No.02/2009 which is under assail in this revision.

3. Counsel for the accused/applicant submits that except prosecutrix (PW-1) and her husband Tukaram/(PW-2) there is no other independent witness supporting the case of the prosecution. He submits that PW-1 and PW-2 being the interested witnesses, the finding recorded by the learned Magistrate subsequently affirmed by the lower Appellate Court cannot be maintained. He submits that the prosecution has utterly failed to prove that there was no intention on part of the accused-applicant to outrage modesty of the prosecutrix and therefore also the conviction of the accused under Section 354 IPC is not justified.

4. State counsel however supports the judgment impugned and submits that the concurrent findings recorded by both the Court below are based on threadbare analysis of the evidence of the witnesses and being so, the same does not require any disturbance in this revision. He submits that the conviction or acquittal does not

depend on the quantity of the evidence but it is the quality thereof which matters.

5. Heard counsel for the parties and perused the judgment impugned and record of the Courts below.

6. Considering the categorical statement of the prosecutrix (PW-1) duly supported by her husband Tukaram (PW-2), it is manifest that on the date of incident when she was returning from her field the accused/applicant met her on the way i.e. an isolation place, and caught hold of her hands. In the absence of any specific defence as to what for the accused had caught hold of the hands of the prosecutrix at the approaching dusk that too in a desolated place, the only presumption operating against him would be that he has used criminal force on her intending to outrage her modesty. There is no infirmity in the evidence of the prosecutrix requiring any interference with the judgment impugned, in this revision.

7. The concurrent findings recorded by both the Courts below as regards conviction of the accused/applicant are hereby maintained. As regards sentence, this Court consider it just, appropriate as also in the interest of justice to reduce the sentence imposed on him to the period already undergone by him. Ordered accordingly.

8. The revision is this allowed in part with the observations made.

Sd/-
(Vimla Singh Kapoor)
Judge