

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No. 206 of 2011

Sukhlal Bargah S/o. Harinath Bargah, aged about 35 years, R/o.
Village Kochli, P.S. Rajpur, District Surguja (CG)

---- **Applicant**

Versus

State of Chhattisgarh, Through District Magistrate, Surguja
Ambikapur (C.G.)

---- **Respondent**

For Applicant : Mr. Bhupendra Singh, Advocate
For Respondent : Mr. Ishwar Jaiswal, PL

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board on 05.03.2021

Case of the prosecution in brief is that on 23.06.2007 when the prosecutrix was sitting under a *Mahua* tree for guarding the field of Bindeshwari, at about 12.00 oclock, the applicant came there and used criminal force to her with intent to outrage her modesty and after catching her hands, the applicant dragged the prosecutrix towards the pit. Prosecutrix opposed the same, then the appellant/accused left her and run away from there. The incident was seen by the (PW-2). After the incident, the prosecutrix reached her home and narrated the incident to her husband and mother-in-law. FIR (Ex.P-1) was lodged by the prosecutrix (PW-1) against the applicant in Police Station Rajpur under Section 354 IPC. After completion of investigation, charge sheet was filed against the applicant in the same section.

2. By the judgment dated 28.08.2010 learned trial Court convicted the accused/applicant under Section 354 IPC and imposed the sentence of RI for six months to pay fine of Rs. 200/- plus default stipulation. In appeal, the conviction recorded by the trial Court has been affirmed. Hence, this revision.

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 24 days, 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. Having heard counsel for the parties and perused the material available on record including the evidence of the prosecutrix (PW-1), in which she has stated that she was sitting under the Mahua tree for guarding the field of Bindeshwari on the date of incident. At about 12.00 O'clock, the applicant came there and used criminal force to her with intent to outrage her modesty and thereafter, the applicant caught hold her hands and dragged her towards the pit near the field. She herself has removed from the hands of the applicant and run away from the spot. She has further stated that at the time of incident Mangal Sai (PW-2) had seen the incident and

after reaching home, she narrated the incident to her husband and mother-in-law.

6. In the present case, the prosecutrix (P.W.1) has stated about the incident. Mangal Sai (PW-2) has accepted that he heard the voice of prosecutrix and when he came there for help, he found that applicant was present there and thereafter, he left the spot. During her cross-examination, the prosecutrix (PW-1) denied all the suggestions that she falsely made the FIR (ExP-1) due to dispute between her husband and the applicant with regard to old dispute of land. The evidence of the Mangal Sai (PW-2) gets complete corroboration from the testimony of the prosecutrix (PW-1). Ramesh Kumar (PW-4) is the police witness who registered the FIR in police station and has also supported the case of the prosecution. Thus, the conviction of the accused/applicant recorded by both the Courts below under Section 354 IPC does not appear to suffer from any legal flaw warranting any interference in this revision. It is hereby affirmed accordingly.

7. As regards sentence, considering the fact that the incident had occurred in the year 2007 and since then considerable period has passed by and further that the accused/applicant has remained in jail for about 24 days, this Court thinks it proper to reduce the sentence imposed on him to the period already undergone. Order accordingly.

8. Revision is thus allowed in part.

Sd/-
(Vimla Singh Kapoor)
JUDGE