VED
PRAKASH
DEWANGAN

Digitally signed
by VED
PRAKASH
DEWANGAN
Date:
2026.10.09
17:45:05 +0530

CGHC010272592015 2026:CGHC:43313

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 811 of 2015

Lalita Prasad Shukla @ Lalita S/o Aniruddha Prasad Shukla Aged About 70 Years R/o Gummatola, Andhiarkhoh, P.S. Gaurela, District- Bilaspur, Chhattisgarh, Chhattisgarh

... Appellant

versus

State Of Chhattisgarh S/o Through The Police Station Gaurela, District- Bilaspur, Chhattisgarh, Chhattisgarh

... Respondent

(Cause title taken from Case Information System)

For Appellant	:	Mr. Vijay Shankar Mishra, Advocate
For Respondent/State	:	Mr. Atanu Ghosh, Deputy G.A.

Hon'ble Shri Justice Ravindra Kumar Agrawal
Judgment on Board

06/10/2026

1. Present appeal under Section 374(2) of the Code of Criminal Procedure, 1973 has been filed by the appellant against the impugned judgment of conviction and sentence dated 07.07.2015, passed by learned Special Judge (Atrocities), Bilaspur in Special Case No. 31 of 2014, whereby the appellant has been convicted and sentenced in the following manner:

Conviction	Sentence
U/s. 354-A(1) of IPC	R.I. for one year and fine of Rs. 1000/-. In default of payment of fine, further imprisonment for two months.
U/s. 3(1)(xi) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989	R.I. for six months and fine of Rs. 1000/-. In default of payment of fine, further imprisonment for two months.
Both the sentences are directed to run concurrently.	

2. The case of the prosecution, in brief, is that, on 27.08.2014, at about 07:30 PM, when the victim (PW-4) had gone to the appellant for exorcism as she felt some ailment, the appellant allegedly took her inside his house and caught hold of her hand and allegedly about to twist her hand, then she somehow fled away from the place and informed her maternal grandmother. The victim thereafter lodged the report on the next day. On the report lodged by the victim, FIR Exhibit P-1 for the offense under Section 354-A(1) of the IPC and Section 3(1)(xi) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short “SC/ST Act”) has been registered against the appellant.

3. Spot map Exhibit P-2 was prepared by the police. Social status certificate of the victim Exhibit P-3 was seized by the police vide seizure memo Exhibit P-4. Statement of the victim under Section 164 of the CrPC has been recorded, which is Exhibit P-7. The appellant was arrested on 29.08.2014, and after recording statements of the other witnesses under Section 161 of CrPC, charge sheet was filed

against the appellant before the learned Trial Court for the offense under Section 354-A(1) of the IPC and Section 3(1)(xi) of SC/ST Act.

4. The learned Trial Court has framed charges against the appellant for the offense under Section 354-A(1) IPC and Section 3(1)(w)(i) of the SC/ST Act. The appellant denied the charge and claimed trial.

5. In order to prove charges against the appellant, the prosecution has examined 07 witnesses. Statement of the appellant under Section 313 of CrPC has also been recorded in which he denied the circumstances that appear against him, pleaded innocence and he has been falsely implicated in the offense. The victim came to him for her treatment by exorcism. When she could not recover from her ailment, she demanded her money back, which was spent on her treatment through exorcism. When he did not pay the said amount, they misbehaved with him, and then the victim lodged a report against him. One defense witness has been examined by the accused in his defense.

6. After appreciation of oral and documentary evidence led by the parties, the learned Trial Court has convicted and sentenced the appellant as has been mentioned in the earlier part of this judgment. Hence, this appeal.

7. Learned counsel for the appellant would submit that the prosecution has failed to prove its case beyond reasonable doubt. There are material omissions and contradictions in the evidence of the

prosecution witnesses, which cannot form the basis for convicting the appellant for the alleged offences. There is no material on record to satisfy the ingredients of Section 354-A(1) of the IPC or Section 3(1)(xi) of the SC/ST Act. He would further submit that, except for the evidence of the victim, there is no other evidence implicating the appellant in the alleged offence. The victim herself had approached the appellant for treatment by exorcism, as the appellant used to perform exorcism for treating persons, and in the course of such treatment, when he touched the hand of the victim, she started shouting and thereafter lodged the report. There was no intention on the part of the appellant to outrage the modesty of the victim; rather, the touching of her hand was merely a part of the process of exorcism. He would further submit that, as per the evidence of the victim, she had disclosed the incident to her maternal grandmother, but had not stated that the appellant had committed any offence against her. There was no physical contact or advance involving any unwelcome and explicit sexual overture. It is also not the case of the prosecution that the appellant knowingly and intentionally touched the victim on account of her belonging to the Scheduled Caste or Scheduled Tribe community. At the time of the alleged incident, the appellant was about 70 years of age, and there was no previous complaint against him alleging that he had indulged in any such activity. In the absence of the essential ingredients of intentional insult, outraging the modesty of the victim, or intentionally using criminal force against her with an intent to outrage her modesty, no offence as alleged is made out against the appellant. In the facts and

circumstances of the case, the appellant is, at the least, entitled to the benefit of doubt and, accordingly, deserves to be acquitted by extending such benefit to him.

8. On the other hand, learned counsel appearing for the State opposes the submissions made by learned counsel for the appellant and submits that the prosecution has proved its case beyond reasonable doubt. He would submit that, except for minor omissions or contradictions, the evidence of the prosecution witnesses is reliable and sufficient to hold the appellant guilty of the alleged offences. The evidence of the victim is sufficient and constitutes clinching evidence to establish that the appellant used criminal force upon her with an intent to outrage her modesty. The victim belongs to the Scheduled Tribe community and she was subjected to an act of outraging her modesty by the appellant. The report was lodged promptly, and the victim has duly supported the case of the prosecution. Therefore, there is no scope for interference with the conviction and sentence imposed upon the appellant, and the appeal is liable to be dismissed.

9. I have heard learned counsel for the parties and perused the record of the trial court.

10. In the present case, it is alleged that when the victim (PW-4) had gone to the appellant for her treatment through exorcism, he took her inside the room and outraged her modesty.

11. PW-4, the victim, has stated in her evidence that about 7–8 months prior to the incident, when she fell ill, she informed her father and

went to the house of her maternal grandmother at village Gummatola. Her maternal grandmother informed her that the appellant practised exorcism for treatment, whereupon she alone went to the house of the appellant. She met his wife and enquired about the appellant. When his wife called him, he came out of the house, and she informed him about her ailment. The appellant took her inside a room for the purpose of exorcism. After placing a lemon in her hand, he asked her to cooperate with the process. Thereafter, when he held her hand and attempted to kiss it, she snatched her hand away from him and ran out of the room. She immediately informed the neighbour of the appellant about the incident and thereafter returned to her maternal grandmother's house and narrated the incident to her. She also informed her father over the phone and thereafter lodged the report, which is Exhibit P-1. In her cross-examination, she admitted that her matrimonial house is situated at Manjhatola Mohalla and her maternal house is situated at Bhattitola Mohalla. She further admitted that PW-5 is not her real maternal grandmother. She stated that she came to know about the appellant practising exorcism from the persons residing in the vicinity. She further stated that had she known that the appellant had such a bad habit, she would not have gone to his house. She admitted that when she went to the house of the appellant, his wife was present in another room. She further admitted that her maternal grandmother (PW-5) had also not stopped her from going there. She denied the suggestion put to her by the defence that her father had assaulted

the appellant and that, in order to save her father, she had lodged a false report against the appellant.

12. From the evidence of the victim, it emerges that when she fell ill, she went to the house of the appellant and asked him to treat her through exorcism. When the appellant took her inside the room and, in the course of the process of exorcism, caught hold of her hand, she raised an alarm and fled from the room. However, the entire evidence of the victim does not establish that the act of touching or holding the hand of the person undergoing exorcism was not a part of the process of exorcism being performed by the appellant. The prosecution has also not been able to demonstrate from the evidence on record the nature or process of exorcism being performed by the appellant, so as to conclude that holding the hand of the person concerned was wholly unrelated to such process. It is not the case of the victim that, at the instance of the appellant, she had gone to his house, or that she was well acquainted with the appellant, or that the appellant was well acquainted with her. On the contrary, the victim herself had gone to the house of the appellant after her maternal grandmother, PW-5, informed her about the appellant's practice of exorcism.

13. PW-5, who is the maternal grandmother of the victim, has stated in her evidence that, in the previous year, the victim came to her house and informed her that she had gone there for treatment through the appellant, who practised exorcism. After returning from his house, her granddaughter did not disclose anything to her, and she came to

know about the incident from the victim's father, who informed her that the appellant had put a lemon in the victim's hand and asked her not to disclose the incident to anyone, otherwise she would die. Except for this, she had no knowledge about the incident. This witness was declared hostile and did not support the prosecution case; however, she supported the recording of her police statement, which is Exhibit P-8. In her cross-examination, she stated that, prior to the alleged incident, she had also taken treatment through exorcism from the appellant. She further admitted that, prior to the incident, the victim had never made any complaint against the appellant and that she had also not heard of any complaint against him from anyone. She stated that the family members of the appellant were residing in his house. She admitted that after returning from the house of the appellant, the victim had not disclosed any incident to her. She further admitted that, after the incident, the appellant was assaulted by the victim and her father, following which the appellant lodged a report with the police. She further admitted that had the appellant not lodged the report, the victim would also not have lodged any report.

14. The evidence of this witness is corroborated by the defence witness as well as by the document, Exhibit D-1, which is a written complaint made by the appellant to the police on 28.08.2014, i.e., on the date of the alleged incident. It is noteworthy that the victim lodged the report on 29.08.2014, whereas, prior thereto, the appellant had made a written complaint, Exhibit D-1, to the police. From a perusal of Exhibit D-1, it further transpires that the victim had come to the house of the

appellant for exorcism and that, after treating her, the appellant advised her to approach a person who practised black magic, as her ailment could not be cured through exorcism, and asked her not to come to him again. Thereafter, the parents of the victim allegedly threatened and assaulted him, which he reported to the police. The appellant has taken the defence that after the treatment, the family members of the victim demanded the money paid for the treatment back and, when he was unable to return the same, they misbehaved with and assaulted him. Thus, from the evidence of the prosecution witnesses, coupled with Exhibit D-1 and the defence evidence, the appellant has been able to put forth a probable defence, which creates a reasonable doubt regarding the prosecution case.

15. PW-1 is the Assistant Sub-Inspector who recorded the FIR, Exhibit P-1. PW-2, the SDOP, Gaurela, conducted the investigation under the SC/ST Act and recorded the statements of the witnesses. Upon completion of the investigation, the charge sheet was filed. PW-3 is the In-charge Tehsildar who issued the social status certificate, Exhibit P-3, to the victim. PW-6 is a villager who did not disclose any incident and expressed his ignorance about the same.

16. PW-7 is the maternal uncle of the victim. He stated in his evidence that, when he heard the noise, he also went to the house of the appellant, where the victim informed him that the appellant was trying to outrage her modesty. In his cross-examination, he admitted that he had known the appellant for the last 25–30 years and had never heard anything wrong about his conduct; rather, his conduct was very

good. Even otherwise, this witness is a hearsay witness, as he had been informed about the alleged incident by the victim.

17. From the evidence discussed hereinabove, the essential ingredients of the alleged offences, namely, physical contact involving unwelcome and explicit sexual overtures with the intention to outrage the modesty of the victim, or the use of criminal force against the victim, who belongs to the Scheduled Tribe community, with the requisite intention, have not been proved by sufficient and reliable evidence. The evidence led by the prosecution is shaky and does not inspire confidence; therefore, it cannot be said to be clinching and sufficient to prove the offences against the appellant beyond reasonable doubt.

18. It is pertinent to note that the charge framed against the appellant under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, was under Section 3(1)(w)(i) of the said Act, whereas the learned Trial Court has convicted him for the offence under Section 3(1)(xi) of the Act. The evidence of PW-1, R.S. Kshatri, the Assistant Sub-Inspector who recorded the FIR (Exhibit P-1), establishes that the victim, Sonabai, had lodged the report on 28.08.2014 and that the report was recorded as narrated by her. In his cross-examination, he admitted that village Gummatola is situated about 22 kilometres from Police Station Gaurela and that the victim had informed him that she could not come to the police station on the date of the incident as she was unwell. However, PW-1 is merely a formal witness who recorded the FIR on the basis of the information

furnished by the victim, and his testimony does not independently establish the alleged act or the requisite ingredients of the offences in question. Therefore, his evidence, by itself, does not lend substantive corroboration to the prosecution case regarding the alleged physical contact or the intention behind the same.

19. Furthermore, the essential ingredients of Section 354-A(1) of the Indian Penal Code have not been established by the prosecution beyond reasonable doubt. In the absence of proof of the principal offence under Section 354-A(1) of the IPC, the conviction of the appellant under Section 3(1)(xi) of the SC/ST Act cannot be sustained merely on the ground that the victim belongs to a Scheduled Tribe community. The evidence on record does not establish the requisite act and intention necessary to attract the offence under Section 3(1)(xi) of the SC/ST Act. Moreover, the appellant was charged under Section 3(1)(w)(i) of the SC/ST Act but was convicted under Section 3(1)(xi) thereof. In the facts and circumstances of the present case, where the prosecution has failed to prove the alleged offence under Section 354-A(1) of the IPC and the evidence does not establish the essential ingredients of the offence under the SC/ST Act, the conviction of the appellant under Section 3(1)(xi) of the said Act is also unsustainable and is liable to be set aside.

20. It is settled principles of law that prosecution has Burden to prove its case beyond reasonable doubt and where two views are possible, arising based on the same evidence, the view which is favoruable to

the accused should be taken into consideration and the accused should be given benefit of doubt. In the matter of **Digambar Vaishnav and Another Vs. State of Chhattisgarh**, 2019 (4) SCC 522, it has been held as under:

> "19. It is also well-settled principle that in criminal cases, if two views are possible on evidence adduced in the case, one binding to the guilt of the accused and the other is to his innocence, the view which is favourable to the accused, should be adopted. This principle has a special relevance in cases wherein the guilt of the accused is sought to be established by circumstantial evidence [See Kali Ram v. State of Himachal Pradesh, (1973) 2 SCC 808]."

21. After having gone through the entire evidence led by the prosecution, this court does not found any sufficient evidence to uphold the conviction and sentence awarded to the appellant.

22. Accordingly, by giving benefit of doubt, the appeal filed by the appellant is **allowed**. The impugned judgment of conviction and sentence is **set aside**. The appellant is **acquitted** from all the offenses.

23. The appellant is reported to be on bail. His bail bond shall continue for the further period of six months, as provided under Section 481 BNSS, 2023.

24. Let a copy of this judgment and the original records be transmitted to the trial Court concerned forthwith for necessary information and compliance.

Sd/-
(Ravindra Kumar Agrawal)
Judge

ved