



2025:CGHC:48093

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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRR No. 985 of 2016**

- Dharmendra, S/o Suresh Dewar, aged about 32 Years, R/o Ward No. 11 Matiya, Police Station Dongargaon, District Rajnandgaon, Chhattisgarh.

...Applicant**versus**

- State of Chhattisgarh, Through the District Magistrate, District Rajnandgaon, Chhattisgarh.

... Non-applicant

For Applicant	:	Mr. Anmol Sharma, Advocate.
For Non-applicant	:	Mr. H.A.P.S. Bhatia, Panel Lawyer.

Hon'ble Shri Justice Radhakishan Agrawal**Order on Board****18.09.2025**

1. The applicant has preferred this criminal revision under Section 397 read with Section 401 of Cr.P.C. against the judgment dated 23.08.2016 passed by the Additional Sessions Judge (Atrocity), Rajnandgaon, C.G., in Criminal Appeal No.60/2016, whereby the learned Appellate Court, while reversing the finding of acquittal passed by the Judicial Magistrate First Class, Rajnandgaon, C.G. in Criminal Case No.4002/14, acquitted the applicant for the offence under Section 323 of Indian Penal Code (for short, 'IPC'), but convicted him for the offence under Section 354 of IPC and sentenced him to undergo rigorous imprisonment for one year and fine of Rs.100/-, in default of payment of fine amount to undergo additional rigorous imprisonment for 15 days.



2. Case of the prosecution, in brief, is that the complainant/victim lodged a report at Police Station Dongargaon, Rajnandgaon, stating that on 28.10.2014, at about 4:00 pm, she along with her friend and aunt had gone to market and while returning home, accused/applicant stopped her and told her that he loved her. Thereafter, with an intention to outrage her modesty, the applicant caught hold of her chest and hands. When she tried to escape, applicant pulled her hair and pushed her to the ground. Somehow, she managed to flee from the spot and reached the police station and lodged the report. On the basis of said report, an FIR (Ex.P-1) was registered against the applicant. During investigation, spot map was prepared vide Ex.P-2 and the statements of the witnesses were recorded.
3. After completion of investigation, charge sheet has been filed against the applicant before the Court of Chief Judicial Magistrate, Dongargaon, Rajnandgaon, C.G. The accused / applicant abjured the guilt and prayed for trial.
4. The Court of learned JMFC, after appreciating the oral and documentary evidence available on record, acquitted the applicant for the offence under Sections 323 & 354 of IPC. However, in an appeal preferred by the State, the Appellate Court, while reversing the finding of acquittal of applicant recorded by the JMFC, convicted and sentenced the applicant as mentioned in para 1 of this order. Hence, the present revision.
5. Learned counsel for the applicant submits that the judgment of acquittal passed by the Court of JMFC is well-merited, whereas the Appellate Court, without properly appreciating the evidence available on record, has erred in recording the finding of conviction and imposing the sentence for the aforesaid offence. He further submits that there are material



contradictions and omissions in the statements of prosecution witnesses.

He also submits that the contents of FIR (Ex.P-1) also do not corroborate with the statement of the victim and that the prosecution has not been able to prove its case beyond reasonable doubt. On these premises, it is prayed by counsel for the applicant that applicant be acquitted of the charge leveled against him.

6. On the contrary, learned counsel for the State, while supporting the impugned judgments, submits that Appellate Court has rightly convicted and sentenced the applicant and there is no illegality or infirmity in the same warranting interference by this Court.
7. I have heard learned counsel appearing on behalf of the parties and perused the record.
8. Victim/complainant (PW-1) has stated in her deposition that on the date of incident, at about 4:00 pm, she had gone to the market along with her aunt and while returning near a grocery shop, the accused/applicant stopped her, told her that he loved her, caught hold of her hair, pushed her to the ground and thereafter, attempted to grab her chest and tear her clothes. She has further stated that she somehow managed to escape from there and went to the police station to lodge the report. She has further stated that at the time of incident, her aunt was present at the spot. However, the said facts are not mentioned in the FIR (Ex.P-1) lodged by her. In cross-examination, she admitted that although there was a crowd at the place of incident, but it was not very large. She further admitted that on the date of incident, one Rakesh was present in his shop and was delivering goods to customers. She also admitted that when she screamed, no one came to her rescue. It is pertinent to note that if the



shop was open and there was crowd, then how is it possible that no one came to save her. She also admitted that when the applicant grabbed her hair and pushed her to the ground, her chest was scratched, her hair was scattered and her clothes were torn. However, these facts are not mentioned in the FIR (Ex.P-1) and the police also did not seize any torn clothes from her.

9. PW-2 Smt. Rani Markam has stated that on the day of incident, the accused stopped the victim, told her he loved her, grabbed her hair, pushed her to the ground, sat on her chest and tried to tear her clothes. However, these details were not mentioned in the FIR (Ex.P-1). In cross-examination, she admitted that she did not actually see the accused/applicant grabbing the victim's chest or tearing her clothes.
10. PW-3 Karishma has stated that near Rajesh's grocery shop, the accused/applicant stopped the victim, pushed her to the ground, sat on her chest and tried to tear her clothes. However, these details were not mentioned in the FIR (Ex.P-1). She has further stated that she did not see the accused/applicant grab the victim's chest with the intention of insulting her, nor did she see him tearing her clothes. According to her, she only saw the accused sitting on the victim's chest, but this fact is also missing in the FIR (Ex.P-1). In cross-examination, PW-3 admitted that she was not at the scene during the incident and that only PW-2 Rani was present.
11. PW-4 Dr. Kiran Chandekar has stated that upon examining the victim, she did not find any external injuries on her person.
12. Thus, from perusal of the above evidence, it is quite vivid that there are material inconsistencies in the statement of victim/complainant- PW-1 and



her statement does not corroborate with the statements of PW-2 Rani Markam, PW-3 Karshima and the contents of FIR (Ex.P-1) to unfold the incident and that the sequence of events has not been clearly or consistently narrated by the victim, therefore, the credibility of her statement is doubtful. Furthermore, PW-4 Dr. Kiran Chandekar, who examined the victim, did not notice any external injuries on her person. Moreover, no torn clothes of the victim were seized by the prosecution to substantiate the allegations. Besides above, there is no cogent and clinching evidence on record to show the complicity of the applicant in the crime in question. In that view of the matter, I am of the considered opinion that the prosecution has failed to prove its case beyond reasonable doubt, therefore, the applicant is entitled for acquittal. The learned Appellate Court was totally unjustified in convicting and sentencing the applicant for the aforesaid offence.

13. Accordingly, the impugned judgment of conviction and order of sentence passed by the Appellate Court dated 23.08.2016 is liable to be and is hereby set-aside and the applicant is acquitted of the charge under Section 354 of IPC.

14. It is reported that the applicant is on bail. His bail bonds are not discharged at this stage and the same shall remain operative for a further period of six months in view of the provisions contained in Section 481 of BNSS.

15. In the result, the criminal revision is allowed.

Sd/-

(Radhakishan Agrawal)
JUDGE

Akhilesh