



IN THE HIGH COURT OF ORISSA AT CUTTACK

CRLA No.558 of 2024

In the matter of an Appeal under Section 374(2) of the Code of Criminal Procedure, 1973 and from the judgment of conviction and order of sentence dated 8th May, 2024 passed by the learned 1st Additional Sessions Judge-Cum-Special Judge, Rourkela in Special G.R. Case No.06 of 2018.

1. *Mohanlal Mahato* *Appellant*

-versus-

State of Orissa *Respondent*

Appeared in this case by Hybrid Arrangement
(Virtual/Physical Mode):

For Appellant - Mr.Sougat Dash, Advocate

For Respondent - Mr.P.K. Mohanty,
Additional Standing Counsel

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MR. JUSTICE D.DASH

Date of Hearing : 02.07.2024 : Date of Judgment : 03.07.2024

D.Dash,J. The Appellant, by filing this Appeal, has called in question the judgment of conviction and order of sentence dated 8th May, 2024 passed by the learned 1st Additional Sessions Judge-Cum-Special Judge, Rourkela in Special G.R. Case No.06 of 2018 arising out of RN Palli P.S. Case No.57 of 2018.



By the impugned judgment of conviction and order of sentence, the Appellant (accused) has been convicted for commission of the offence under section 354 of the Indian Penal Code, 1860 (for short, 'the IPC'). Accordingly, he has been sentenced to undergo rigorous imprisonment for two (2) years and pay fine of Rs.5,000/- (Rupees Five Thousand) in default to undergo rigorous imprisonment for one (1) month for commission of the said offence with a further direction that in the event of realization of fine amount, the same shall be paid to the victim towards compensation.

2. Prosecution Case:-

On 19.02.2018 around 10.00 a.m., the victim had been to Shanti Nagar for work and then had gone towards the store room of Dhariti Flour Mill to bring the working materials. It is stated that the accused caught hold of her from behind and forcibly pressed breasts. It is further stated that the victim thereafter having pushed, the accused went outside the Flour Mill and informed everything to the family members whereafter the FIR was lodged. Basing upon the said FIR, a criminal case, being registered, the investigation commenced. On completion of the investigation, the Final Form was submitted placing this accused to face the trial for commission of the offence under section 354 of



the IPC read with section 3(1)(4)/3(1)(w)(i)/3(2)(va) of the S.C. and S.T. (POA) Act.

The Trial Court, on going through the evidence of the prosecution witness (P.Ws.1 to 7) and the documents admitted in evidence on their behalf (Exts.1 to 10), has acquitted this accused of the charge under the Special Act, but then having held that the prosecution case to have been established for commission of the offence under section 354 of the IPC, has held him guilty for the said offence and sentenced him as afore-stated.

3. The defence plea is that of complete denial and false implication. The accused, however, has not tendered any evidence in support of such plea.

4. Mr.Sougat Dash, learned counsel for the Appellant (accused), from the very beginning, without impeaching the finding of guilt against the accused, as has been returned by the Trial Court for commission of the offence under section 354 of the IPC, confined his submission to the question of sentence. He submitted that the accused then was aged about 51 years and now his age is around 57 years. He further submitted that the accused is a wage earner and he too was working in the very same Flour Mill as a labourer, where it the victim (P.W.1) was working. He further submitted that at the initial stage, the



accused has remained in custody for about a month and thereafter he, has been released on bail when it is not stated that at any point of time till today, his conduct has in any way been adverse or that he is involved in any criminal activity. In view of all these above, placing the specific allegation leveled by the victim (P.W.1) against this accused, he urged that at this distance of time the accused, being further sent to jail to suffer imprisonment would not be in the interest of justice when the fact remains that his family members are now wholly dependent on his income and he has been accepted in the society, having joined the main stream.

5. Mr.P.K.Mohanty, learned Additional Standing Counsel for the Respondent-State, while supporting the finding of guilt against the accused, as has been returned by the Trial Court, submitted that looking at the nature of the act as stated by P.W.1 to have been committed upon her by this accused, the sentence imposed by the Trial Court is just and proper.

6. Keeping in view the submissions made, I have carefully read the impugned judgment of conviction. We have also extensively travelled through the depositions of the witnesses (P.Ws.1 to P.W.7) and have perused the documents admitted in evidence and marked as Ext.1 to Ext.10.



7. The victim (P.W.1), in her evidence as it appears, having stated the act upon her as has been done by this accused, does not state that the accused had further made any such attempt by coming outside and following the victim. For the said act, as stated by the victim (P.W.1) as it reveals from the records, the accused has remained in custody from 20.02.2018 to 20.03.2018 and in the meantime, he has undergone mental agony of a criminal trial for a long period of seven years. It is stated that the accused is now aged about 57 years and maintaining himself and his family members as a wage earner.

Cumulatively viewing all these above factors, while maintaining the conviction of the accused for commission of the offence under section 354 of the IPC, this Court feels inclined to modify the sentence by reducing the period of imprisonment for the period already undergone and directing the accused to pay a fine of Rs.7,500/- (Rupees Seven Thousand Five Hundred) in default to undergo rigorous imprisonment for a period of six (6) months with further stipulation that in the event of realization of fine, the same shall be paid to the victim (P.W.1) as compensation in terms of Section 357(1) of the Code of Criminal Procedure, 1973.

8. In the result, the Appeal is allowed in part with the modification as to the order of sentence dated 8th May, 2024



passed by the learned 1st Additional Sessions Judge-Cum-Special Judge, Rourkela in Special G.R. Case No.06 of 2018 to the extent as indicated above.

*(D. Dash),
Judge.*

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