



2026:CGHC:15895

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NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 1021 of 2007**

- Rakesh Rai, son of Haripad Rai Bengali, aged about 35 years, resident of village Subhash Nagar, Police Station Gandhinagar, Ambikapur, District Surguja (C.G.)

... Appellant**versus**

- State of Chhattisgarh Through : The Police Station – Gandhinagar, Ambikapur, District Surguja (C.G.)

... Respondent

For Appellant : Mr. Hariom Rai, Advocate.
For Respondent/State : Mr. Himanshi Yadu, P.L.

Hon'ble Smt. Justice Rajani Dubey, J**(C A V Judgment)**



1. The appellant in this appeal under Section 374(2) of CrPC has challenged the legality, validity and propriety of the judgment of conviction and order of sentence dated 29.10.2007 passed by the Special Sessions Judge, Atrocities, Ambikapur – Surguja (C.G.), in Special Sessions Case No. 29/2007, whereby the appellant stands convicted under Section 3(1)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act'), and sentenced as under:

Conviction	Sentence
Under Section 3 (1) (xi) of S.C./S.T. Act,	R.I. for 06 months with fine of Rs.200/-, in default of payment of fine amount to undergo additional R.I. for 01 month.

2. Prosecution story, in brief, is that on 24.12.2006, the wife of the appellant told complainant (PW-1), who belonged to Uraon Caste which comes under the category of Scheduled Tribes, that she was going to village Deori and, therefore, requested her to come to her house and prepare food for the appellant. Accordingly, the prosecutrix (PW-1) went to the house of the accused/appellant to cook food. At that time, the accused/appellant told her that the light of the kitchen could be switched off from the bedroom and asked her to go to the bedroom to switch it off. When prosecutrix



(PW-1) entered the bedroom of the accused/appellant, the accused/appellant caught hold of her hand and, with the intention of outraging her modesty, attempted to push her towards the bed, however, the prosecutrix (PW-1) managed to free her hand and returned to her house, where she shut the door from inside. Thereafter, the accused/appellant came and started banging on the door of her house from outside. Thereafter, the incident was reported at Police Station Gandhinagar, whereupon an FIR (Ex.P-1) for the offence punishable under Section 354 of IPC and 3(i)(xi) of the Act was registered being against the accused/appellant. Upon completion of the investigation, the charge-sheet was filed before the Court of the learned Judicial Magistrate First Class, Ambikapur, against the accused/appellant for the offence under Section 354 IPC and 3(i)(xi) of the Act. Thereafter, learned trial Court framed charge under Section 3(1) (xi) of the Act, in alternate under Section 354 of IPC, to which the accused/appellant abjured his guilt and prayed for trial.

3. In order to prove its case, the prosecution examined as many as 05 witnesses. Statement of the accused/appellant was also recorded under Section 313 of CrPC in which he denied all the incriminating circumstances appearing against



him in the prosecution case, pleaded innocence and false implication.

4. Learned trial Court after hearing counsel for the respective parties and considering the material available on record, by the impugned judgment convicted and sentenced the accused/appellant as mentioned in para 1 of this judgment.
5. Learned counsel for the appellant submits that there is an inordinate and unexplained delay in lodging the F.I.R. The alleged incident occurred on 24.12.2006, whereas the F.I.R. was lodged on 26.01.2007 i.e. after 32 days of the incident. The prosecutrix (PW-1) has failed to furnish any satisfactory explanation for such delay, and the learned Trial Court erred in not properly appreciating this material aspect. Learned counsel further submits that even if the contents of the F.I.R. are taken at their face value, the allegations do not constitute an offence under Section 3(1)(XI) of the Act. The F.I.R. has been lodged due to previous enmity between the parties. It appears that the complaint was filed only after the dispute between them could not be amicably settled. The Learned Trial Court failed to consider this aspect in its proper perspective. Learned counsel also submits that there are material contradictions and omissions in the statements of the prosecution witnesses rendering the prosecution story doubtful. It has been also argued that the prosecution has



failed to establish its case beyond reasonable doubt. So, the impugned judgment of conviction and order of sentence is liable to be set aside.

In support of his submission, learned counsel placed reliance on the decision dated 29.02024 passed by the Hon'ble Apex Court in the matter of *Dashrath Sahu Vs. State of Chhattisgarh [2024 INSC 68]*.

6. On the other hand, learned counsel for the State strongly opposed the prayer of the appellant and submits that the learned trial Court has rightly convicted the appellant and no interference is called for by this Court.
7. Heard learned counsel for the parties and perused the record of the learned trial Court.
8. It is evident from the record of the trial Court that the learned trial Court framed charge against the appellant under Section 3 (1) (xi) of the Act, in alternate Section 354 of IPC and after appreciating the oral and documentary evidence, the learned trial Court considering the provision of Act, 1989, convicted and sentenced her as mentioned in para of of this judgment.
9. As regards the conviction of the appellant under Section 3 (1) (xi) of the Act, 1989, it transpires from the record of the learned trial Court that the prosecution has not filed the caste certificate of the prosecutrix (PW-1) before the learned



Trial Court and the learned Trial Court only on this ground that the accused/appellant admitted the caste of the prosecutrix (PW-1) that she belonged to Scheduled Tribe category, held him guilty for the offence.

10. It is well settled proposition of law that in order to establish the guilt of the accused under the offence of S.C./S.T. Atrocities Act, the prosecution has to prove its case beyond reasonable doubt by obtaining the social status certificate issued by the competent authority, and this Court in the matter of ***Meghnath Vs. State of Chhattisgarh [Cr.A. No.822/2002 dated 24.06.2024]***, referring the decision of Hon'ble Apex Court in the matter of ***Kumari Madhuri Patil Vs. Additional Commissioner, Tribal Development*** reported in ***AIR 1995 SC 94***, held in paras 11 and 12 as under :-

*“11. The Hon'ble Supreme Court in the matter of ***Ku. Madhuri Patil*** (supra) which has been followed by this court in the case of ***Pilla Bai*** (supra). Supreme Court in ***Ku. Madhuri Patil*** (supra) has specifically observed that the application for grant of social status certificate shall be made to the Revenue Sub-Divisional Officer and Deputy Collector or Deputy Commissioner and the certificate shall be issued by such officer rather than officer at Taluk or Mandal Level.*

*12. Considering the overall material and evidence available on record, in the light of the matter of ***Ku. Madhuri Patil*** (supra), it is found that the Caste Certificate vide (Ex.P-3) of the complainant was issued by*



the Village-Sarpanch (PW-6) who is not a competent authority to issue caste certificate. Therefore, the conviction of the appellant for the offence punishable under Section 3 (1) (x) of S.C. and S.T. (Prevention of Atrocities Act) is not found proved beyond reasonable doubt and the same is liable to be set aside.”

11. In the instant case also, it is evident from the record of the learned Trial Court that no caste certificate of the prosecutrix (PW-1) issued by the competent authority as contemplated in **Madhuri Patil (supra)** has been produced by the prosecution. In absence of any documentary evidence to establish the fact that the prosecutrix (PW-1) belong to S.T. community, it is unsafe to convict the accuse/appellant for the offence under Section 3(i)(xi) of the Act. The prosecution has utterly failed to prove this fact that the complainant (PW-1) belonged to Scheduled Tribe category by not producing/fining caste certificate issued by the competent authority. Thus, in view of the decisions of this Court, in ***Meghnath (supra)***, the finding of the learned Trial Court that the prosecutrix/complainant (PW-1) belongs to Scheduled Tribe community is not sustainable in the eye of law. Further, it is also evident from the FIR (Ex.P-1) that the date of incident is 24.12.2006 and the date of FIR is 26.01.2007, as such there is inordinate delay of about 32 days and the cause of delay in filing the FIR was shown to be 'भय के कारण



गांव चले जाने के कारण'. The explanation furnished by the prosecution does not inspire confidence and creates a serious doubt regarding the veracity of the prosecution story. It is well settled that such delay, when not satisfactorily explained, casts a shadow on the prosecution case.

12. The next question which arises for consideration by this Court whether the accused/appellant used force with the intent to dishonour or outrage modesty of prosecutrix/complainant (PW-1).
13. Prosecutrix (PW-1) has stated that the incident pertains to December, 2006 at about 8:00 PM, when she went to the house of the accused/appellant to prepare food, as his wife had earlier told her that in her (wife of accused) absence, she (prosecutrix) should come and cook food for accused. She has further deposed that when she entered the house of the accused, he followed her inside, caught hold of her hand, and started pulling her. Thereafter, she pushed the accused with force, freed herself, and immediately ran from there to her house and bolted the door from inside. The accused then came and started banging on the door of her house and told her that from that day onwards, she should not come to their house or their land. There was a bore-well situated on the accused's land, from where she used to



fetch water. She has also deposed that on the date of the incident, the wife of the accused had gone to village Deori. Her (prosecutrix's) elder sister was present at the house, and after returning from the house of the accused, she narrated the entire incident to her sister. Due to fear, she (prosecutrix) went to sleep at night in the house of her uncle, who resides in the neighbourhood. She has also deposed that on the next morning, the wife of the accused scolded her and alleged that she (this witness) was falsely implicating her husband. Thereafter, she along with her elder sister went to village Deori and informed her parents about the incident. Subsequently, she along with her parents, went to the concerned police station (Dehat) and lodged the report of the incident vide Ex.P-1.

14. In cross-examination, the prosecutrix (PW-1) has admitted that prior to the alleged incident, there existed cordial relations between her family and that of the accused, and both families were on visiting terms with each other. She further admitted that she used to visit the house of the accused even in the absence of his wife and that the accused treated her like his daughter. It is also admitted by her that there had been no prior dispute between her and the accused before the date of the alleged incident. She has further admitted that at the time of the incident, it was dark.



She admits that on the date of incident, the accused had not entered into quarrel with her. The prosecutrix has also admitted that her father had entered into a compromise with the accused. She has further admitted that the report of the incident was lodged after about one month from the date of the incident because the accused/appellant had pelted stones at her house and threatened that accused/appellant would not allow them to pursue studies. Additionally, she admitted that she neither read the report (Ex. P/1) nor was it read over to her by the police, and that the police did not record her statement.

15. Father of prosecutrix (PW-2) has stated that on 24.12.2006, at evening, her daughter (PW-1) informed him over phone that the accused/appellant called his daughter to his (accused) house to prepare meal and when she was going to switch on the light of the house, the accused/appellant caught hold of her daughter's hand and started pulling her but she pushed the accused with force and freed herself. This witness has also stated that on 26.12.2006, he came to Subhash Nagar, Ambikapur from village Devri and at the relevant time, one Omprakash told him to compromise the matter and thereafter a written compromise was executed saying not to report the matter then they did not lodge the report. He has also stated that after compromise, he went to



his house at Devri and his daughter (PW-1) informed him over phone that the accused/appellant had pelted stone at his house uttering filthy language.

16. In cross-examination, this witness has admitted that he had purchased a rehabilitation land from accused and constructed a house. He has also admitted that a registry was not executed and agreement has been executed on stamp paper. This witness has denied this suggestion that there was disputed as he had not paid the consideration amount. He has also denied this suggestion that he got the report lodged through her daughter (PW-1) due to the land dispute. He has also denied that he persuaded her daughter (PW-1) to file a report a month later. He has admitted that he lodged the report only after giving it some thought/discussion, once her daughter (PW-1) had informed the incident. He has also admitted that he had stated in his police statement that accused had pelted stone at his house and used to spit upon seeing his daughter (PW-1), but if the said fact is not written in his police statement he cannot tell the reason thereof.
17. Cousin of prosecutrix (PW-3) has stated that the incident pertains to 24.12.2006 at about 7:30 PM. At that time, she was unwell and was lying at home. Her sister Prosecutrix (PW-1) told her that she was going to the house of accused



to prepare food. In between, she came to check on her as she (this witness) was not keeping well. After about two hours, she (Prosecutrix) again came to see her, sat with her for a short while, and then stated that accused had told her to have food there, after which she went back to the house of accused. She has also deposed that after about 10–15 minutes, her sister prosecutrix PW-1 returned and knocked at the door, calling out, “Didi, Didi, open the door.” When she responded, she (prosecutrix) told her to immediately close the door and not to speak anything, and further asked her to put a lock on the door. She (prosecutrix) also told her that accused would come and ask to open the door, but she should not open it under any circumstances. She has also deposed that after about 3–4 minutes, accused Rakesh came and knocked at the door, calling out to open. At that time, accused also called out to her to open the door. When she looked through the window, accuse told her to vacate the house immediately. Thereafter, her sister prosecutrix (PW-1), without informing her anything further, went away and slept elsewhere and she went and at the instance of accused, she stayed at the house of neighbour Ankit.

18. It is clear from the evidence of all the three aforesaid prosecution witnesses that the prosecutrix (PW-1) and her father lodged the FIR (Ex.P-1) after 32 days of the incident



and no satisfactory cause of delay has been offered by them. PW-3, Cousin of prosecutrix, has not supported the prosecution case and it is also clear that no caste certificate was filed by the prosecution to establish the social status of the prosecutrix. Even otherwise, the prosecutrix (PW-1) herself stated that there existed cordial relations between her family and that of the accused, and both families were on visiting terms with each other.

19. The Hon'ble Apex Court in the matter of ***Dashrath Sahu*** (***supra***) held in para 10 and 11 as under :-

“10. In the said judgment, this Court dealt with a case involving offence under Section 3(2)v) of the SC/ST Act. The language of Section 3(1)xi) of the SC/ST Act is pari materia as the same also provides that the offence must be committed upon a person belonging to Scheduled Caste or Scheduled Tribes with the intention that it was being done on the ground of caste.

11. Considered in the light of the above factual and legal position, we are of the opinion that the conviction of the accused appellant for the offence under Section 3(1)(xi) of the SC/ST Act was otherwise also not sustainable on merits. Hence, the conviction of the accused appellant as recorded by the trial Court and upheld by the High Court for the offence under Section 3(1)(xi) of the SC/ST Act is hereby set aside and quashed. The appellant is acquitted of the charge under Section 3(1)(xi) of the SC/ST Act. The



appellant is on bail. His bail bonds are discharged.”

20. In the light of above proposition in ***Dashrath*** (supra), in the present case also, it is evident from the prosecution witnesses that the prosecution has utterly failed to prove that the alleged act was committed with the requisite intention to dishonour or outrage the modesty of the prosecutrix (PW-1) on the ground that she belonged to a Scheduled Tribe community, which is a sine qua non for attracting the provisions of the SC/ST Act, as reiterated by the Hon'ble Apex Court in ***Dashrath*** (supra).
21. In view of the foregoing discussion, the appeal is **allowed**. The impugned judgment of conviction and order of sentence dated 29.10.2007 passed by the Special Sessions Judge, Surguja at Ambikapur (C.G.), in Special Sessions Case No. 29/2007, is set aside and the Appellant is acquitted of the charge levelled against him.
22. The appellant is already on bail. Keeping in view of the provisions of Section 437-A Cr.P.C. (481 of the B.N.S.S.), the appellant is directed to forthwith furnish a personal bond in terms of Form No.45 prescribed in the Code of Criminal Procedure of sum of Rs.25,000/- with one surety in the like amount before the Court concerned which shall be effective for a period of six months along with an undertaking that in



the event of filing of Special Leave Petition against the instant judgment or for grant of leave, the aforesaid appellant on receipt of notice thereof shall appear before the Hon'ble Supreme Court.

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

Sd/-

(Rajani Dubey)
Judge