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HIGH COURT OF CHHATTISGARH : BILASPUR

CRIMINAL REVISION No. 497 OF 2002

Applicant : Smt. Anjani Bai W/o Amirdas,  
aged about 28 years, Caste- Panika,  
R/o Village- Puta, P.S. Lakhanpur,  
Tehsil- Ambikapur, District- Surguja ( C.G.).

-Versus-

Non-applicants : 1. Saha Das @ Sah Das S/o Nathu Das, aged  
about 22 years, Occupation-Agriculturist,  
R/o Village- Puta, Police Station-Lakhanpur,  
District- Surguja (C.G.).  
2. State of Chhattisgarh Through Police Station  
Lakhanpur, District- Surguja (C.G.).

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Applicant by Shri Ashok Dixit, Advocate.  
State by Miss Sharmila Singhai, Deputy Govt. Advocate.

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ORDER

This order of the Court is passed by Hon'ble Mr. Justice L. C.  
Bhadoo.

1. This criminal revision has been preferred by Smt. Anjani Bai being aggrieved by the judgment passed by the Third Additional Sessions Judge, Ambikapur in Sessions Trial No. 365/2001 dated 21.8.2002 by which learned Additional Sessions Judge has acquitted the non-applicant No.1 Sahadas @ Sahdas of the charges punishable under section 341 and 376 of the Indian Penal Code.
2. Learned counsel for the applicant submits that as the State has not preferred any appeal against the impugned judgment of acquittal, therefore the prosecutrix has filed this revision.
3. The relevant facts for the disposal of this criminal revision are that on 21<sup>st</sup> September 2001 at about 1 p.m. in the village-Puta

when the prosecutrix was coming from Anganwadi, the accused met her in the way and took her in the house of Sonia Bai and committed rape on her against her will. Thereafter she returned to her house and disclosed this fact to Rajkumari because at that time her husband was not at residence, 2 to 4 days after this incident when her husband Amir Das returned from Chirmiri then she disclosed the fact to her husband and thereafter she along with her husband went to the police out post Udaipur and lodged the report. Upon this the police registered a case under section 376 and 341 of the Indian Penal Code and after completion of the investigation filed charge sheet against the accused/non-applicant No.1.

4. Learned Additional Sessions Judge framed the charges against the accused, who denied the charges and prayed for trial. The prosecution in order to prove the charges adduced evidence. <sup>Statement by</sup> The ~~evidence~~ of the accused was recorded under section 313 of the Criminal Procedure Code. After hearing the arguments of learned Public Prosecutor and learned counsel for the accused learned Additional Sessions Judge acquitted the accused from the charges.
5. I have heard arguments of Shri Ashok Dixit, learned counsel for the applicant/prosecutrix and Miss Sharmila Singhai, learned Deputy Govt. Advocate for the State, and perused the record.
6. Learned trial Court reached to the conclusion that there are contradictions in the statements of the prosecutrix and her husband. More over witness Rajkumari has not supported the case of the prosecution, the offence is said to have been

committed on 21<sup>st</sup> September 2001 whereas the report was lodged on 28<sup>th</sup> September, 2001 i.e. with the 7 days delay, the report was not lodged on the same day even after coming of her husband but it was lodged 2-4 days after coming of her husband, and more over the lady Dr. Smt. Asha Bansal has also not given definite opinion about the intercourse with the prosecutrix on the date of the incident, therefore the trial Court reached to the conclusion that the statement of the prosecutrix and her husband does not inspire confidence as such the accused has been acquitted.

7. I have perused the judgment of the trial Court, the evidence of the witnesses. If we look at the statement of the prosecutrix Anjani (PW 5) she has said that the incident of rape was one year prior to her statement, whereas her husband Amirdas has said that the incident is 2 years prior to the date of the statement. More over the prosecutrix has stated that she did not file any written report, whereas she stated that the signature on Ex.P/5 are her only. Ex.P/5 is a written and typed report, which was submitted to the police station under the signature of the prosecutrix, whereas she totally denied this fact. The prosecutrix has said in her statement that when the rape was committed on her, she did not disclose this fact to anyone else and when she came to her house she disclosed to Rajkumari, and after 2 to 4 days of the date of incident, her husband came who was not at the residence on the date of incident, she disclosed this fact to her husband on his return to home and even thereafter they waited 2-4 days and thereafter went to

lodge the report. No reason or explanation was given for not lodging the report for 7 days. Even Rajkumari (PW 6) has not supported the statement of the prosecutrix and she has said that 6 -7 months back she went for vaccination of her daughter, she did not know about the incident with Anjani Bai. Anjani Bai had not gone for vaccination of her daughter. This witness has been declared hostile, whereas the prosecutrix has said that she had gone to Anganbadi for having vaccination for the daughter of Rajkumari and when she was returning with a girl who was 7 years old, the accused caught hold of her and committed rape. She has further said that when the accused took her inside the room the daughter of Rajkumari was in her lap. She further said that she did not receive any injury during the intercourse, only bangles were broken, she has not said that she raised any hue and cry when the accused had committed rape against her will. In the cross examination Amirdas has said that 2-3 times complaints were made by his wife against the accused and there are 2-3 cases pending against the accused on the complaints made by his wife. The prosecutrix has admitted that it is true that the accused is her brother-in-law, she knows the brother of the accused Ravidas and in <sup>h, b</sup> ~~his~~ marriage she had gone to the house of the accused but she has denied the suggestion that the accused Sahadas gave her food with his hand <sup>h</sup> ~~in~~ that marriage, she has also denied the suggestion that on this count a quarrel took place with the wife of Sahadas <sup>W</sup> ~~and her~~. In view of these reasons assigned for not believing the statements of the prosecutrix, and in view of the contradictions in the statements

of husband and wife both and as Rajkumari has not supported the version of the prosecutrix, the report was lodged with 7 days delay for which no reasonable explanation has been given, I am of the opinion that the finding of the trial Court is not perverse or not contrary to the evidence available on record. Therefore I have no reason to differ from the conclusions and reasons for acquitting the accused of the charges; therefore the judgment of the trial Court is sustained.

8. Accordingly, this criminal revision has no force, it is without any merit, which is liable to be and is dismissed.

Sd/-  
L.C.BHADOO  
Judge