



2025:CGHC:5854

NAFR

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**CRA No. 517 of 2005**

Sushil Vishwas, S/o Shri Praful Vishwas, aged about 30 years, Occupation- Agriculturist, R/o. Village- Kanchan Nagar, P.S.- Ramanujganj, District- Surguja (C.G.)

**--- Appellant**

**versus**

State of Chhattisgarh, through P. S.- Ramanujganj, District- Surguja (C.G.)

**--- Respondent**

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For Appellant : Mr. Neeraj Mehta, Advocate.  
For State : Mr. Akhilesh Kumar, GA

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**Hon'ble Smt. Justice Rajani Dubey**  
**Judgement on Board**

**31.01.2025**

1. This appeal is preferred under Section 374 (2) of the Code of Criminal Procedure, 1973 against the judgment dated 10.06.2005 passed by Learned Additional Sessions Judge, Link Court, Ramanujganj (Surguja) C.G. in S.T. No. 413/2000, wherein the said Court convicted the appellant and sentenced him as under:-

<u>Conviction</u>	<u>Sentence</u>
Under Section 354 of IPC	R.I. for 2 years with payment of fine Rs. 2,000/- and in default of payment of fine, to undergo additional R.I. for 06 months.

2. The prosecution story in a nut shell is that, the marriage of the deceased namely Dipika with one Narayan was solemnized prior to 9-10 years. The allegation leveled against the present appellant is that on the date of incident i.e. 30.08.2000, when she was alone, the appellant came to the house of deceased and caught her hand and committed sexual intercourse with her. Thereafter, the deceased disclosed this incident to her husband namely- Narayan. Upon this, on 04.09.2000 at evening, her husband convened a meeting, in which, the appellant, his sister and brother-in-law were present and in that meeting, the deceased only stated about her hand being held by the appellant. Upon this, her husband slapped the deceased. Thereafter on the same night, the deceased has committed suicide by consuming poison. Upon investigation, the matter was registered at Police Station for offence under Sections 376 & 306 of IPC against the appellant. After completion of due and necessary investigation, a charge-sheet was led before the Court of Judicial Magistrate First Class, Ramanujganj. However, the said case was committed to the Court of Additional Sessions Judge, Link Court, Ramanujganj and the matter was registered as Sessions Trial No. 413/2000 and the appellant was put to trial for the offence punishable under Sections 376 & 306 of IPC.
3. So as to hold the accused/appellant guilty, the prosecution has examined as many as 17 witnesses to prove its case against the appellant. Statement of the accused/appellant was also recorded under Section 313 of Cr.P.C. in which he denied all the incriminating charges leveled against him and pleaded his innocence and false entailment in the case.

4. Learned Trial Court after hearing the counsel for the respective parties and considering the material available on record, has convicted and sentenced the accused/appellant as mentioned in opening para of this judgment.
5. Learned counsel for the appellant submits that the learned trial Court has not properly evaluated the material available on record and wrongly reached to a conclusion and convicted the appellant and as such the impugned judgement deserves to be set aside. He further submits that the appellant is an innocent person and he has been falsely implicated by the Narayan (husband of deceased) due to subsisting enmity. There are vital omissions and contradictions in the statements of all the witnesses and prosecution has failed to prove its case beyond reasonable doubt, but the learned Trial Court gave perverse findings and thereby wrongly convicted the appellant in the said offence, therefore, the impugned judgment passed by the learned Trial Court is liable to be set aside.

Alternatively, he submits that if this Court ultimately comes to the conclusion that the conviction of the appellant under Section 354 of IPC, as imposed by the Trial Court is just and proper, the incident took place in the year 2000, this appeal is pending since 2005, the appellant is now aged more than 45 years and he is remained in jail for more than 3 months and he did not misuse the liberty while being on bail and no useful purpose would be served in again sending him to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon him may be reduced to

the period already undergone by him.

6. *Ex adverso*, learned counsel for the respondent/State supporting the impugned judgment submits that learned Trial Court after minutely appreciating the oral and documentary evidence has rightly convicted and sentenced the appellant under Section 354 of IPC. So, there is no scope for interference by this Court. This appeal being without any merit is liable to be dismissed.
7. I have heard learned counsel for the parties and perused the material available on record including the impugned judgment.
8. It is clear from the record of learned Trial Court that it framed charges against the appellant for offence punishable under Sections 376 & 306 of IPC and it is also clear that prosecution has examined as many as 17 witnesses to prove its case against the accused person/appellant. Learned Trial Court after minutely appreciating the oral and documentary evidence acquitted the appellant of offence under Sections 376 & 306 of IPC and thereby convicted the appellant for offence punishable under Section 354 of IPC.
9. It is clear from record of learned Trial Court that deceased- Dipika committed suicide. Ravinder Adhikari (PW-1) stated in his deposition that the deceased- Dipika was married to Narayan Malik and on the date of incident he went to house of Narayan Malik, at that time deceased's husband- Narayan beaten the deceased, when he tried to solve the dispute between them, her husband again beaten her and then PW-1 returned his home. He got information after 1-2 hours that

the deceased committed suicide by consuming poison.

10. Gowri Adhikari (PW-2) has also stated in her deposition that on the date of incident, deceased's husband- Narayan beaten the deceased and on the same night, the deceased consumed poison.
11. Kali Dasi (PW-3) has stated in her deposition that the deceased told her that the appellant committed forcibly sexual intercourse with her, upon this, her husband- Narayan beaten due to which she committed suicide by consuming poison.
12. Shyamal Sandar (PW-4) has stated in his deposition that one Hari Mandal told him that the deceased committed suicide, however, he has no knowledge as to why the deceased committed suicide.
13. Narayan (PW-5), husband of the deceased stated in his deposition that his wife/deceased namely Dipika told him that when she was alone, the appellant came to the house and caught her hand and committed sexual intercourse with her. Thereafter, at about 11:00 pm, his wife/deceased apprised him that she consumed poison and she told him to look after her kids, when he asked to the deceased that why she committed suicide, she answered that the appellant committed sexual intercourse with her and she came to conclusion that there is no point in living anymore.
14. Thus, learned Trial Court after minutely appreciating the oral and documentary evidence including the statements of all witnesses found that husband and relatives of deceased stated that on the date of

incident accused/appellant tried to outrage her modesty and acquitted the appellant under Sections 376 & 306 of IPC, but convicted the appellant under Section 354 of IPC. Thus, learned Trial Court did not commit any illegality or infirmity in its findings as regards conviction of the appellant. So, the conviction of the appellant is hereby affirmed.

15. As regards the sentence, keeping in view the facts that incident took place in the year 2000 and nearly 24 years have rolled by since then, this appeal is pending since 2005. The appellant is now aged more than 45 years; appellant has remained in jail for more than 03 months and he did not misuse the liberty while being on bail and no useful purpose would be served in again sending him to jail. Hence, taking into consideration the facts and circumstances of the case, this Court is of the opinion that the ends of justice would be served if the sentence awarded under Section 354 of IPC by the Trial Court is reduced to the period already undergone by him.
16. *Ex consequenti*, the appeal is **partly allowed**. While maintaining the conviction of the appellant under Section 354 of IPC, the sentence imposed thereunder by the Trial Court is hereby reduced to the period already undergone by him. However, the fine amount imposed by the Trial Court shall remain intact. The impugned judgment stands modified to the above extent.
17. The appellant is reported to be on bail, therefore, his bail bond shall remain in operation for a period of six months from today in view of provision of Section 437-A of Cr.P.C.

18. The trial Court record along with a copy of this judgment be sent back immediately to the trial Court concerned for compliance and necessary action.

Sd/-

**(Rajani Dubey)**

JUDGE

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