CGHC010002282014 2026:CGHC:44675

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

Criminal Appeal No.274 of 2014

Reserved on 09.10.2026

Pronounced on 15.10.2026

Biru Alias Rajeev Tiwari, S/o Nageshwar Tiwari, aged About 24 Years, Caste Brahmin, R/o Village Kenabandh, Bouripara Ambikapur, PS Ambikapur, District Surguja (CG) **... Appellant**

versus

State Of Chhattisgarh Through The Station House Officer, AJAK Thana, Ambikapur, District Surguja (CG) **... Respondent**

For Appellant	:	Shri TR Chandrakar, Advocate.
For Respondent/State	:	Ms. Nandkumari Kashyap, PL.

Hon'ble Shri Sudhir Kumar, Judge
CAV Judgment

1. This Appeal is directed against the judgment dated 04.03.2014 passed by the Special Judge (under SC/ST Act), Surguja, Ambikapur, District Surguja (C.G.), in Special Session Trial No.49/2011, whereby the Appellant has been convicted under Sections 324/34 and 394/34 IPC and

SISTLA NEELIMA VISHNU PRIYA

Digitally signed by SISTLA NEELIMA VISHNU PRIYA

sentenced to undergo RI for one year 1 and pay a fine of Rs.500/- under Section 324/34 IPC and to undergo RI for 4 years and pay a fine of Rs.1,000/- under Section 394/34 IPC with usual default stipulation. Both substantive sentences were directed to run concurrently.

2. The brief facts of the prosecution case are that on 08.02.2011, at about 11:00 p.m., the 20-year-old victim was proceeding to the house of her relative to sleep there, as her husband had not returned home from work and was carrying a bag containing clothes and Rs.2,500/-. When she reached near Kenabondh School, two persons caught hold of her hands and threatened to beat her if she did not accompany them or raised an alarm. When she resisted, both persons assaulted her with fists and dragged her behind the school into the bushes. In the light of a mercury lamp, she identified both persons, one of whom was the present Appellant and the other was juvenile accused Chhote Sanju. They pushed her to the ground and removed her clothes. When she resisted and raised an alarm, the Appellant assaulted her on the face and chest with fists, while Chhote Sanju inflicted an injury near her left ear with a knife and threatened to kill her if she did not remain silent. Thereafter, Chhote Sanju and the present Appellant committed rape upon her, one after the

other. After the incident, both of them tore the clothes kept in her bag and took away Rs.2,500/-. On 09.02.2011, at about 9:15 a.m., the victim lodged a report at Police Station AJAK, Ambikapur, on the basis of which the offence was registered against the accused persons. During investigation, the victim was medically examined (Ex.P-10A), the Investigating Officer inspected the spot and prepared a spot map (Ex.P-9) and the statements of witnesses were recorded. On the same day, the Appellant was taken into custody and his memorandum statement (Ex.P-18) was recorded in the presence of witnesses, wherein he stated that he had spent a portion of the stolen amount and Rs.350/- remained with him. Pursuant thereto, three currency notes of Rs.100/- each and one currency note of Rs.50/-, totalling Rs.350/-, were seized from him (Ex.P-19). The seized articles were sent to the Forensic Science Laboratory for examination, the slide prepared during the victim's medical examination was seized, report of which is Ex.P-21 and the *Patwari* prepared a spot map in the presence of witnesses. Upon completion of the investigation, the charge-sheet was filed before the Court of the Chief Judicial Magistrate, Ambikapur, and vide committal order dated 10.05.2011, the case was committed to the Court of Session.

3. During trial, charges were framed against the Appellant under Sections 506 Part-II/34, 394/34 read with Section 397, 376(2)(g) and 307/34 of IPC and Sections 3(2)(5) and 3(1)(10) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, which he denied and claimed to be tried. In order to prove its case, the prosecution examined as many as 13 witnesses and exhibited 21 documents. In his defence, the Appellant pleaded innocence and false implication and did not examine any witness in his defence.

4. After evaluating the evidence available on record, the trial Court, vide its impugned judgment dated 04.03.2014, convicted the Appellant under Sections 324/34 and 394/34 of IPC and sentenced him as mentioned above. However, the Appellant has been acquitted of the charge under Sections 376(2)(g), 307/34, 506-II/34 and Section 397 IPC and also under Sections 3(2)(v) (thrice), 3(1)(x) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

5. At the outset, learned counsel for the Appellant submits that he is not challenging the conviction imposed upon the Appellant under Sections 324/34 and 394/34 IPC on merits and submits that considering the facts and circumstances of the case, the Appellant may be sentenced to the period

already undergone by him.

6. Contrarily, learned State Counsel opposes the Appeal and submits that the trial Court, after properly appreciating the oral and documentary evidence available on record, has rightly convicted the Appellant. It is further submitted that the prosecution has proved the charges against the Appellant beyond reasonable doubt, the impugned judgment of conviction warrants no interference and as such, the Appeal deserves to be dismissed.

7. I have heard learned counsel for the parties and have also perused the material available on record including the impugned judgment.

8. Admittedly, victim has died and her statement could not be recorded before the Court. (PW-8) is the husband of the victim and he has stated that on being asked, his wife i.e. the victim has informed him that the Appellant has committed *marpit* with her. Moreover, Dr. Snehalata Kujur (PW-9), who has examined the victim, has stated that there was a lacerated wound on the left side of her face in the size of 1.5x1.5 cms, a sharp injury present on the left ear lobe in the size of ½ x ½ cm, a bruise on the right thigh in the size of 2x5 cms. On examination of her private part, it appears that the

victim was habitual to sexual intercourse and no definite opinion could be given regarding sexual intercourse. The injuries sustained by the victim are simple in nature.

9. In the present case, the trial Court, while convicting the Appellant under Section 324/34 of the IPC, has relied upon the evidence of Dr. Snehalata Kujur (PW-9), who has stated that the injuries sustained by the victim were neither serious nor dangerous to cause her death. So far as the conviction under Section 394/34 of the IPC is concerned, the trial Court has categorically recorded a finding that as per the FIR (Ex.P-17), the Appellant had assaulted the Complainant with hands and fists, whereas the knife was used by the co-accused (juvenile). Considering the contents of the FIR (Ex.P-17), the evidence of the Doctor who examined the injured, coupled with the fact that the prosecution had successfully established that a part of the looted amount was seized from the possession of the Appellant, for which no explanation was offered by him in his statement recorded under Section 313 of the Cr.P.C, the trial Court convicted the Appellant under Section 394/34 of the IPC.

10. Having gone through the material available on record, this Court is of the considered opinion that the trial Court was

absolutely justified in convicting the Appellant for the aforesaid offences. Accordingly, the conviction imposed on the Appellant by the trial Court under Sections 324/34 and 394/34 IPC is hereby maintained.

11. Taking into consideration the fact that the incident took place in the year 2011, the Appellant has already remained in jail from 10.02.2011 to 04.03.2014 i.e. about 3 years and 25 days and the Appellant was granted bail on 16.04.2014 and further considering the totality of the circumstances, this Court is of the opinion that ends of justice would be served if the Appellant is sentenced to the period already undergone by him. Ordered accordingly.

12. In the result, the Appeal is **allowed in part** to the extent indicated hereinabove. Sd/-

(Sudhir Kumar)
Judge

Priya