



2025:DHC:6152



* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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*Reserved on: 13th May, 2025
Pronounced on: 28th July, 2025*

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CRL.A. 691/2025

STATE

Govt of NCT of Delhi

.....Appellant

Through: Mr. Yudhvir Singh Chauhan, APP for
State

versus

VINOD BHARDWAJ

S/O Sh. Murli Ram Bhardwaj,
C/O Krishan Kumar Chauhan,
Near Old Kuan Rang Puri Gaon,
New Delhi

.....Respondent

Through: None Appeared

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T

NEENA BANSAL KRISHNA, J.

1. Criminal Appeal under Section 377(3) of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) has been filed on behalf of the State seeking setting aside of Judgment dated 03.08.2019 whereby the Respondent, Vinod Bhardwaj has been acquitted under Sections 328/354/354D/384 Indian Penal Code, 1860 (*hereinafter referred to as "IPC"*){though convicted under S.323 and S.506(1) IPC}.



2. Also, enhancement of sentence awarded *vide* Order on Sentence dated 03.08.2019 whereby the Respondent has been sentenced only to fine of Rs.1,000/- for offence punishable under Section 323 IPC and Rs.5,000/- for the offence punishable under Section 506(I) IPC, in case FIR No. 0155/2014 dated 31.01.2014 registered under Sections 323/328/354/354A/354D/384/506 IPC at P.S. Vasant Kunj (South).

3. **Brief facts** are that a Complaint dated 31.01.2014 was filed by the Complainant/Prosecutrix against the Respondent/Accused Vinod Bhardwaj on the allegation that in the year 2013, while the Prosecutrix used to work as a maid at the rented house of the Respondent at Rangpuri, Delhi, she was administered some *stupefying substance* in a cold drink i.e., Pepsi by the Respondent and thereafter, her signatures were taken on some papers which were alleged to be marriage papers, to show that she was his wife. He also made her obscene video clippings.

4. The further allegations were that Respondent threatened her and told her to either to come to his room or else he would make the videos public in Newspaper and would also make them viral in the area of Mahipalpur and Rangpuri. He further threatened her that if she failed to come, he would throw acid on her face.

5. It was further alleged that when the Prosecutrix used to go for her work, the Respondent used to tease her on her way and also made an attempt to take her forcibly to his house. He used to tell the Prosecutrix that her mother had borrowed Rs.15,000/- from him and sought its return from the Prosecutrix, who in turn denied that any money was taken by her mother. It was further alleged that on 06.06.2013 in the evening, when the Prosecutrix



was returning from her job, Respondent met her and threatened her to accompany him or else he would make the video clippings, viral.

6. The Prosecutrix then narrated the entire incident to her husband who went to the Respondent to enquire from him. The Respondent in response, gave beating to her husband and threatened that if he disclosed the incident to anyone, he would beat him up again.

7. On these allegations of the Prosecutrix, FIR No. 0155/2014 under Sections 323/328/354/354A/354D/384/506 IPC was registered on 31.01.2014 at P.S. Vasant Kunj (South).

8. The *Chargesheet* was filed. **Charges were framed under Sections 328/354/354D/384/506 IPC on 10.09.2015.** The additional charge of Section 323 IPC was framed on 21.03.2016 to which the Respondent pleaded not guilty.

9. The Prosecution examined *09 Prosecution witnesses*, out of which, the most important witness was PW-1, the Prosecutrix.

10. The statement of the Accused was recorded *under Section 313 Cr.P.C.* in which he denied all the incriminating evidence. He also examined *DW-1 Sandeep*, his landlord in his defence.

11. The *Ld. Trial Court*, after considering the Prosecution evidence, *acquitted the Respondent for the offence punishable under Sections 328/354/354D/384 IPC but convicted the Respondent for the offence punishable under Sections 323/506(I) IPC vide judgment dated 03.08.2019.* The Respondent was sentenced to fine of Rs.1,000/- for offence punishable under Section 323 IPC and Rs.5,000/- for the offence punishable under Section 506(I) IPC *vide Order on Sentence dated 03.08.2019.*



12. *The State by way of present Appeal has sought setting aside of impugned judgment dated 03.08.2019 whereby the Respondent has been acquitted under Sections 328/354/354D/384 IPC and enhancement of the sentence granted under Sections 323/506(I) IPC.*

13. The **grounds for enhancement** are that the Ld. Trial Court has failed to appreciate that the Complainant and other Prosecution witnesses, have fully supported the case of the Prosecution in their respective testimony recorded in the Court. PW-1, the Prosecutrix had fully supported the case of the Prosecution despite which the Respondent has been acquitted under Sections 328/354/354D/384 IPC and has been held guilty only under Sections 323/506(I) IPC. The maximum punishment under Section 323 IPC is upto one year or fine, which may extend to Rs.1,000/- or both. Likewise, Section 506 IPC provides maximum sentence upto two years or fine.

14. The Ld. Trial Court has ignored the imposition of appropriate sentence proportionate to the offence committed. It is further submitted that the Respondent did not deserve any leniency and mere imposition of fine is disproportionate to the gravity of the offence. Reliance has been placed on Shyam Narain vs. State (NCT of Delhi) (2013) 7 SCC 77, wherein the Apex Court while dealing with the issue of sentencing, stated that primarily it is to be borne in mind that sentencing for any offence has social goal, it must be most imposed having regard to the nature of offence in the manner in which the offence has been committed. The fundamental principle of imposition of sentence is based on the principle that Accused must realise that the crime committed by him has not only created a dent in his life but also a concavity in the social fabric. The purpose of just punishment is designed so that individuals in society do not suffer time and again from such crimes. It



deserves as a deterrent. True as it is, that on certain occasions, opportunity may be granted to the convict for reforming himself but it is equally true that that the principle of proportionality between an offence committed and the penalty imposed must be kept in mind. Hence, the Order on Sentence is erroneous.

15. The *acquittal under Sections 328/354/354D/384 IPC is challenged on the ground* that it has not been appreciated by the Ld. Trial Court that as per the human behaviour, minor discrepancies are bound to happen while deposing before the Court and therefore acquitting the Respondent for all other offences is illegal and liable to be set aside.

16. The Respondent in his statement under Section 313 Cr.P.C. has merely denied the allegations and claimed innocence by asserting that he had been falsely implicated. The order of acquittal itself is not proper as being illegal, arbitrary and amounts to miscarriage of justice.

17. *It is therefore, prayed that Impugned Judgment dated 03.08.2019 whereby the Respondent has been acquitted under Sections 328/354/354D/384 IPC be set aside and the sentence awarded vide order dated 03.08.2019 under Sections 323/506(I) IPC, be enhanced.*

Submissions heard and record perused.

18. The Respondent had been charged with the offences punishable under Sections 328/354/354D/384 IPC for which he has been acquitted. The Prosecution has challenged this acquittal on the ground that the judgment is based on conjecture and surmises and the acquittal is bad in law.

19. First and foremost, except from making this false assertion, there is nothing in the grounds of Appeal to show the basis on which the acquittal is sought to be set aside. Be that as it may, since in the prayer it is stated that



the acquittal has been challenged, the case of the Prosecution be considered to ascertain if the acquittal under the aforesaid Sections, was justified.

20. The entire case of the Prosecution hinged upon the testimony of PW-1, the Prosecutrix. She deposed that prior to her marriage, she used to work as maid in the rented house of Respondent, Vinod Bhardwaj at Rangpuri, Delhi. She asserted that the Respondent administered some intoxicant substance to her in the cold drink and obtained her signatures on marriage papers. Thereafter, he started threatening her that he has prepared some obscene videos of her and if she would not visit him at his house, he would circulate/distribute the videos in the area of Mahipalpur. On her statement Ex. PW-1/A, the FIR was registered.

Section 328 of the IPC:

21. The first offence with which the Respondent was charged was under Section 328 IPC for having administered *stupefying substance* on account of which she became unconscious and her signatures were taken on some documents and her nude/semi-nude videos were prepared.

22. She had claimed that substance was mixed in Pepsi cold drink and administered between 4 PM and 5 PM. She further deposed that the Respondent had also consumed Pepsi along with her. She further testified that she regained consciousness at home. What does emerges from her testimony is that she had lost her consciousness and the advantage of her condition was taken by the Respondent.

23. *First and foremost*, no month, year or date has been given of such administration of the *stupefying substance*. *Secondly*, there is no evidence that was collected of there being any *stupefying substance* available, which was administered to her. The nature of such *stupefying substance* has also



neither been disclosed nor ascertained. Interestingly, according to the testimony of the Prosecutrix, the Respondent had also consumed Pepsi with her. *Thirdly*, according to her, she became unconscious and regained her consciousness at her residence. This again is absolutely impossible if she had lost her consciousness in the house of Respondent, no circumstances are forthcoming as to who took her in this unconscious condition and left her at her residence. The entire narrative of she being administered a *stupefying substance* by Respondent, is bereft of any evidence and has not been established by the Prosecution.

24. The falsity of her claim of having been rendered unconscious and her signatures being taken on the marriage, is further disproved by the fact that the documents of marriage admittedly had photographs of the Prosecutrix. On two documents, individual photographs of Prosecutrix were affixed but one document had joined photograph of the Victim and the Respondent. To explain how her photographs appeared on the said document, the Prosecutrix in her cross-examination stated that since she was working as a maid at the house of Respondent, she had given her photographs to him. However, no explanation has forthcoming as to why and under what circumstances was there any need for her to give her photographs to Respondent. Moreover, even if it is accepted that she had given two photographs, there is no circumstances detailed by her to explain why the third photograph was a joint photograph of herself and Respondent.

25. As has been observed by the Ld. ASJ, bare perusal of the photographs reveals that they appears to have been taken in a studio, which implies that she had accompanied Respondent to the studio for the photographs, which discredits her claims that the marriage documents have been manipulated or



her signatures were taken while she was unconscious or administration of the *stupefying substance*.

26. Furthermore, these documents had proper signatures of the Prosecutrix. Had she been in an unconscious state, it is difficult to comprehend as to how her full signatures appeared on the document.

27. The only conclusion, which emerges from these admissions of the Prosecutrix are that in fact she had not administered any *stupefying substance* and had not lost consciousness nor her advantage was taken by Respondent, as claimed by her. The very fact that the marriage document has a photograph taken in the studio and her proper signatures, belies the story of stupefication that has been narrated by her in her testimony.

28. Another witness relied by the Prosecution was the testimony of PW-9 Dr. A.K. Gupta, Director, Documents Division, Truth Labs, Delhi. He had examined the questioned document and standard documents, as was sent to him by the SHO, P.S. Vasant Kunj for the purpose of examination. He prepared his Report Ex. PW-9/A. The documents had the signatures of the Victim marked Q1 to Q19 while S1 to S5 were the specimen signatures of the Prosecutrix, which were taken during the investigations. As per the Handwriting Expert Report, it was found that it was not possible to fix the authorship of the signatures marked Q1 to Q9 in comparison to signatures marked S1 to S5, in the absence of admitted signatures of the person concerned. The Report Ex. PW-9/A also does not support the Prosecution version that the signatures marked Q1 to Q9 were of the Victim. The case of the Prosecution that the signatures on the marriage document had been obtained by the Respondent, therefore, stands totally demolished.



29. *The next allegation was that* according to the Prosecutrix while she was unconscious, advantage was taken by the Respondent *in preparing her videos*. The mobile phone of the Respondent was seized by the IO and total 09 video files were recovered from his mobile. Out of these 09 videos, only 03 files having numbers 0003, 0004 and 0009 were found containing the video of the Victim. In video No. 0003, Victim was found sitting on the floor in semi-nude condition and subsequently, she has been seen in the next video clip having file No. 0004 as completely nude, after which she herself stoop up and wore her clothes one by one. In the next video clip having file No. 0009, she was found lying on the bed with her upper clothes rolled up and someone was touching her breast.

30. From the 03 videos that were recovered from the mobile phone of Respondent, what emerges is that the Prosecutrix was not unconscious and the alleged videos had not been prepared by Respondent by taking advantage of stupefaction; rather these videos clearly depicted that the Victim was in full senses and was conscious and aware when the videos were prepared. So much so, in one of the videos, she was found styling. The allegation of the Prosecutrix that these 03 videos, had been prepared taking advantage of her stupefaction, is completely false as is evident from the aforesaid discussion.

31. The entire case of the Prosecution of the Prosecutrix being administered alleged drink which made her unconscious or advantage being taken by the Respondent in taking her signatures on marriage documents or preparing her videos, is nothing but a complete falsehood. The marriage document as well as the videos has been prepared with the conscious participation of the Prosecutrix.



32. ***The Prosecution failed to establish the offence under Section 328 and the learned ASJ has rightly held that the Prosecution miserably failed to prove its case under Section 328 IPC.***

Section 384 of the IPC:

33. The ***second Charge against the Respondent was of extortion punishable under Section 384 IPC.*** According to the Prosecutrix, she raised two-fold pleas; ***firstly***, that on the strength of obscene video clips, Respondent used to pressurise her to visit his room and ***secondly***, he demanded a sum of Rs.15,000/- from her on the pretext that her mother owed this money to the Respondent.

34. As has been already held, it has not been proved that the Video clips had not been prepared without the conscious participation of the Prosecutrix. But even if her testimony is accepted that she was being asked to visit him in his house, *per se* does not prove any offence of extortion.

35. The second averment is also that Rs.15,000/- was being demanded but that was not as an extortion, but was her demand on the pretext that her mother had taken a loan of Rs.15,000/- from him. There was no statement in her examination in chief that there was any threat of extortion of money in the name of obscene video clips.

36. ***The entire evidence of the Prosecutrix even if admitted, does prove an offence under Section 384 IPC of which the Respondent has been rightly acquitted by the Ld. ASJ.***

Section 354D of the IPC:

37. The ***third offence*** for which the Respondent was charged was under Section 354D on the allegation that the Respondent used to tease her while she used to return home from her job.



38. In order to prove this charge, it had to be established that the Prosecutrix had given a clear indication to Respondent of her disinterest in him. Admittedly, Victim and her testimony did not give any detail of any such incident except of 30.01.2014. She had vaguely deposed that the Respondent used to tease her when she used to return back to her home from job. She has not given any specific date or time of such alleged offence. Admittedly, she was known to the Respondent for a long time and had even worked in his house as his maid.

39. ***There is no cogent evidence to prove that the Respondent used to stalk her and the Ld. ASJ has rightly acquitted the Respondent for the offence under Section 354D IPC.***

Section 354 of the IPC:

40. Likewise, the *fourth charge was under Section 354 IPC*. As already discussed, there is no single evidence to indicate that her modesty was ever outraged by the Respondent, especially, when she had admitted in her cross-examination that he had never done any *badtameezi* with her.

41. ***The Ld. ASJ has rightly held that there is no evidence for establishing the offence under Section 354 IPC and acquitted the Respondent.***

Section 323/506(I) of the IPC:

42. The Respondent had also been charged with the offence under Sections 323/506(I) IPC for which he has been convicted. There is no challenge to this conviction by the Respondent.

43. The Prosecution has asserted that the Respondent has been given a lenient sentence as only fine has been imposed for the offence under Sections 323/506(I) IPC, respectively.



44. First and foremost, this contention is absolutely erroneous because the Ld. ASJ in the Order on Sentence dated 03.08.2019 has clearly noted that the Respondent had remained in judicial custody from 31.01.2014 to 23.04.2014 i.e., for 82 days. To say that no substantive sentence was imposed is absolutely incorrect.

45. Secondly, *considering the relationship between the Prosecutrix and the Respondent and also having regard that most of the offences under which allegations were made by him were disproved, the sentence of fine under Section 506(I)/323 IPC is fully justified.* The maximum fine of Rs.1,000/- has been imposed for the offence under Section 323 IPC and Rs.5,000/- for offence punishable under Section 506(I) IPC.

46. In the given circumstances, the Respondent has been proportionately and properly sentenced for the offences.

Conclusion

47. The Respondent has been rightly acquitted by the Ld. ASJ for offences under Sections 328/354/354D/384 IPC and has been adequately sentenced for the offences under Sections 506(I)/323 IPC.

48. *There is no merit in the present Appeal, which is hereby dismissed.*

49. Pending Applications are also disposed of.

**(NEENA BANSAL KRISHNA)
JUDGE**

JULY 28, 2025

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