

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 617 of 2015**

Pransai Uraon, S/o. Shivbaran, aged about 39 years, R/o. Village Gursiyan, Police Station Bango, District Korba (CG)

---- Appellant

Versus

State of Chhattisgarh, through the Police Station Bango, District Korba (CG)

---- Respondent

Ms. Neha Verma, counsel for the appellant.
Shri Sumit Jhawar, Panel Lawyer for the State.

Judgment On Board**14/8/2015**

Challenge in this appeal is to the judgment of conviction and order of sentence dated 13.3.2015 passed by the Additional Sessions Judge, Katghora in Sessions Trial No.113/2012 whereby and whereunder the learned Additional Sessions Judge after holding the appellant guilty for kidnapping two minor girls, i.e. prosecutrix (PW-2) & prosecutrix (PW-3) names not mentioned, in order to subject them for slavery and to compel them for unlawful compulsory labour, convicted him under Sections 363, 367 and 374 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for three years, four years and one year along with fine sentences of Rs.500/-, Rs.500/- & Rs.500/-, in default of payment of fine, to further undergo RI for three months on each default.

2. Conviction is impugned on the ground that without there being an iota of evidence, the trial Court has convicted and sentenced the appellant as aforementioned, thereby committed illegality.

3. As per the case of the prosecution, on 02.8.2012, Syril Oraon (PW-1), father of the prosecutrix (Pw-2) gave a written complaint before

the Bango Police Station, Korba that without his consent and intimation, the appellant has taken his minor daughter and also daughter of Panchram and employed them in Delhi. On the basis of the written complaint (Ex-P/1), the Police started investigation. The prosecutrix were recovered from Delhi through recovery memo Ex-P/4 & Ex-P/5. After the recovery, the prosecutrix were handed over to their respective fathers vide Ex-P/2 & P/3.

4. Statement of the witnesses were recorded under Section 161 of the Code of Criminal Procedure, 1973 (for short 'the Code'). The police after registering the case under Crime No.67/12 started investigation. The appellant was arrested on 09.8.2012. After necessary investigation, charge sheet was filed before Judicial Magistrate First Class, Katghora, who in turn committed the case to the Court of Sessions, Korba. The learned Additional Sessions Judge received the case on transfer and conducted the trial. Co-accused Ramlakhan was declared absconded. Present appellant was charged for the offence under Sections 363, 367 and 374 of the IPC. The appellant denied the charges and prayed for trial.

5. In order to prove the guilt of the appellant, the prosecution has examined as many as 10 witnesses. Statement of the appellant was recorded under Section 313 of the Code wherein he denied the circumstances appearing against him, pleaded innocence and false implication in crime in question.

6. After providing opportunity of hearing to the parties, the learned Additional Sessions Judge convicted and sentenced the appellant as aforementioned.

7. I have heard learned counsel for the parties and perused the judgment impugned and record of the Court below.

8. Learned counsel for the appellant submits that as directed, she is not contesting the appeal on its merits. She is confining her arguments on the point of quantum of sentence only. She further submits that there is no any criminal history against the appellant, he is the first offender, he is in jail since 10.8.12, thereby he has served the maximum part of the sentence of three years and four days. The appellant will not commit any offence in future, hence, he may be given an opportunity. Learned counsel further submits that no any attempt for outraging the modesty or any other likewise offence were committed against the prosecutrix by the appellant. No any such allegations were made by the prosecutrix in their statements. The appellant may be given opportunity as he has served the major part of the sentence.

9. On the other hand, learned counsel for the State opposed the prayer made in this behalf and submitted that looking to the act of the appellant that he has taken two minor aged girls for unlawful labour and subjected them for alleged slavery, the trial Court has rightly convicted and sentenced the appellant, hence, prayer regarding quantum of sentence may be dismissed.

10. In order to appreciate the arguments advanced on behalf of the parties, I have perused the evidence adduced and the judgment passed by the trial Court.

11. On close scrutiny, it appears that no any criminal history was reported against the appellant in the entire charge sheet, also from the perusal of the statement of the prosecutrix go to show that no any other offence or act was committed, but he subjected the prosecutrix for

unlawful compulsory labour and slavery and that too without any consent/permission taken from the guardians of the prosecutrix by the appellants. The appellant is in jail for three years and four days, thereby he has completed his sentence for the offence under Section 363 and 474 of the IPC. As per the order of the trial Court, in para 24, all the substantive jail sentences shall be run concurrently. The appellant is also sentenced RI for four years for the offence under Section 367 of the IPC. Looking to the ingredients of the offence and the degree of offence proved and also on consideration of the entire facts and circumstances as surfaced before the trial Court, I am of the view that sentence awarded under Section 367 of the IPC requires interference.

12. So far as the judgment of conviction passed by the trial Court are concerned, on perusal of the entire evidence, I do not see any reason to interfere in the judgment of conviction. As the fine sentences awarded are not excessive, no any interference is required.

13. On due consideration, the appeal is allowed in part. The judgment of conviction passed against the appellant for the offence under Sections 363, 367 and 374 of the IPC is hereby affirmed. Fine sentence awarded by the trial Court to the appellant is also hereby affirmed. Substantive jail sentence passed by the trial Court for the offence under Section 363 and 374 of the IPC are also requires no any interference. Hence, they are also affirmed. So far as the substantive jail sentence under Section 367 of the IPC for RI for four years, it is modified and reduced up to the period already undergone by the appellant along with the benefit of running the substantive jail sentences concurrently as ordered by the trial Court.

14. Presently the appellant is in jail. He be released forthwith if not required in any other case, after realizing all the fine amount and if not paid after serving the sentence for the default period.

Sd/-

(Chandra Bhushan Bajpai)

JUDGE