

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 456 of 2012

- Saiyyad Mushtaq Ali S/o. Samshaid Ali, R/o. P.S. Dhamtari, Distt. Dhamtari (C.G.)

---- Appellant

Versus

- State Of Chhattisgarh Through: The P.S.-City Kotwali, Dhamtari (C.G.)

---- Respondent

For Appellant	:	Mr. Devershi Thakur, Advocate
For State	:	Mr. Lav Sharma, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

15/11/2016

1. The Appellant in the instant case has been convicted vide order dated 28.12.2011 passed by Additional Sessions Judge, Dhamtari in Sessions Trial No. 43/2011 for the offence punishable under Section 376 IPC and have been sentenced to RI for 7 years and fine of Rs. 2000/-. In addition, he has also been found guilty of having committed offence under Section 506 B of the IPC and sentenced to undergo R.I. for 3 years with the default stipulations.
2. The prosecution case in brief is that PW-1 the Prosecutrix is the step daughter of the present Appellant. It is alleged that the present appellant is said to have been physically ravishing the Prosecutrix three months prior to till 14.06.2011. The Prosecutrix is said to have conveyed this aspect to her neighbor Shikha PW/3 who in turn brought this aspect to the notice of PW/2 Safina who happens to be

the sister of the present Appellant and they all together decided to lodge FIR accordingly FIR was lodged as early as on 09.07.2011.

3. During the course of trial the prosecution has examined as many as 17 witnesses and all the witnesses have supported the case of the prosecution and no witness was examined on behalf of the defence. After conclusion of the trial the Court below finding the appellant guilty of having committed the offence under Section 376 as well as 506B of the IPC convicted the appellant vide judgment of conviction dated 28.12.2011 for the period as is enumerated in the first paragraph of this judgment. It is this judgment of conviction dated which is under challenge by the Appellant in the present Appeal.
4. The Counsel for the Appellant submits that it is a case where the appellant has been falsely implicated in the case by PW/2 who is appellant's sister who has falsely implicated the Appellant with a malafide intention of the property belonging to the present Appellant where she was also residing would fall upon her.
5. It was also contended by the Appellant though however this ground has not been raised during trial that it is a case where the present appellant is said to have fell in the love with the Prosecutrix and wanted to marry her, and for all these he prayed for quashment of the order of conviction.
6. The state Counsel however opposing the Petition on the ground that all the prosecution witnesses have supported the case of the prosecution and it is a clear open and shut case where the prosecution version has been undoubtful, fully supported and therefore judgment of conviction does not warrant any interference.
7. Having considered the rival contentions put forth on either side and on perusal of the record what is clearly reflected from the evidence

is the fact that the prosecution witnesses particularly all the main witnesses have supported the case of the prosecution ie. PW1 the Prosecutrix, PW/2 Safina, sister of the present appellant who happens to be the aunt of the Prosecutrix and the immediate neighbor PW-3 Shikha to whom the Prosecutrix had for the first time confided of not having her mensus which gave rise to the suspicion and the said PW/3 thereafter mentioned this fact to PW/2. The case of the prosecution further stands proved from the statement of the PW-4, Shekh Ekram, PW-5, Issak Ali and PW-6, Md. Guljar the three Hajrats who were the elders of the community who were called upon when the said dispute came to light and before whom also the Appellant is said to have confessed of ravishing the prosecutrix PW1.

8. The case of the prosecution further stands affirmed from the medical examination which was conducted upon the Prosecutrix PW-1 by the PW-14 Dr. Madhvi Wankhede who has confirmed the Prosecutrix being subjected to sexual intercourse and the Doctor has also found that the Prosecutrix meanwhile got conceived and she was carrying pregnancy for about 14-16 weeks.
9. In the light of the aforesaid evidence which have come on record particularly that the PW-1, PW-2 and PW-3, this Court has no hesitation in reaching to the conclusion that the Trial Court has not committed any error of law or fact while convicting the appellant for the offence under section 376 as well as 506B of the IPC and the present Appeal therefore fails and deserves to be and is accordingly dismissed.

Sd/-

(P. Sam Koshy)
Judge