

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 138 of 2010

(Arising out of judgment/order dated 26.11.2009 in S.T. No. 135/2007 of the learned Additional Session Judge(FTC), Kondagaon, Bastar)

- Somaru Ram S/o Bansingh Markam R/o Gram Machali Thana Vishrampuri, Bastar (C.G.)

---- Appellant

Versus

- State Of Chhattisgarh

---- Respondent

For Appellant	:	Shri Roop Naik, Advocate
For State	:	Shri Vinod Tekam, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

JUDGMENT ON BOARD

09.12.2017

1. This is an office reference.
2. In this Criminal Appeal the challenge is levied to the judgment of conviction and order of sentence passed by the Additional Session Judge(F.T.C.), Kondagaon, Bastar on 26.11.2009 in S.T. No. 135/2007 whereby and whereunder the appellant was convicted for the offence under Sections 363, 376 of the Indian Penal Code (hereafter called as 'IPC') and sentenced to undergo rigorous imprisonment of 3 years and fine of Rs.200/-, in default of payment of fine, additional R.I. for 6 months, to undergo rigorous imprisonment of 7 years and fine of Rs.200/-, in default of payment of fine, additional R.I. for 6 months respectively.

3. In brief, the prosecution story is that on 19.07.2007 at 4 pm in village Machli the prosecutrix was picking maize from the road along with her brother and sister. The appellant reached there and took the prosecutrix in his house by pulling. After gagging the towel in her mouth, he committed rape on her. The prosecutrix was near about 13 years old. On 20.07.2007, the prosecutrix lodged report at police station Vishrampuri. After completion of the investigation the charge-sheet was filed against the appellant and after conclusion of the trial, the Trial Court convicted and sentenced the appellant as mentioned aforesaid.

4. A report dated 10.10.2017 from the office of the Superintendent, Central Jail, Jagdalpur, District - Bastar has been received. As per the report, the appellant has been released on 21.05.2013 on completion of sentence after giving benefit of remission.

5. As per the alleged report Ex.P/4, Dr. Rajni Thakur had examined the prosecutrix and opined that sexual intercourse has been committed with her. As per the report, Ex.P/1, the radiological age of the prosecutrix was above 10 years and below 13 years. As per the alleged report Ex.P/3 Dr. Devendra Kumar Krishan has examined the appellant Somaru and found that he was able to perform sexual intercourse.

6. P.W.4 Chaitu Ram and P.W.5 Sakha Ram say in their statements given on oath that they have come to know that the appellant had committed sexual intercourse with the prosecutrix.

7. P.W.8 says in para-2 that the appellant had taken her in his house by pulling her and after gagging towel in her mouth, he committed rape on her.

8. P.W.9 Smt. Koushlya and P.W.10 Ramchandra Markam say in para -2 of their statements given on oath that the prosecutrix had told them that the appellant had committed sexual intercourse with her.

9. Looking to the above mentioned circumstances, this Court finds that the trial Court has not committed any illegality in convicting and sentencing the appellant as mentioned above.

10. Hence, the appeal deserves to be and is hereby dismissed.

11. As the appellant has already been set at liberty after completion of sentence, no further order is required.

Sd/-
(Sharad Kumar Gupta)
JUDGE