

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.666 of 2007

Yogi Ram, S/o Gandarai Kewant, aged about 30 years, R/o Ansula, Police Station Pithora, District Mahasamund, Chhattisgarh

---- Appellant

versus

State of Chhattisgarh through Police Station Pithora, District Mahasamund, Chhattisgarh

--- Respondent

For Appellant	:	Shri Bharat Sharma, Advocate
For State/Respondent	:	Ms. Madhunisha Singh, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

28.11.2017

1. The Appellant has been convicted under Section 376 of the Indian Penal Code and sentenced with rigorous imprisonment for 10 years and fine of Rs.2,000/- with default stipulation.
2. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Raipur would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and has already been released on 16.1.2014.
3. Case of the prosecution, in brief, is that on 16.11.2006 at about 11:10 p.m., Indirabai (PW1) lodged First Information Report (Ex.P1) to the effect that on 16.11.2006 itself, at about 5:30 p.m., she saw that the prosecutrix (PW4), aged about 12 years was weeping and the Appellant was holding her hands. On being asked, the Appellant fled from there. The prosecutrix told her that the Appellant had committed rape with her. Thereafter, Indirabai informed about the incident to her husband, Sarpanch and other villagers. Crime No.279 of 2006 was registered against the

Appellant under Section 376 of the Indian Penal Code. The prosecutrix was medically examined by Dr. Tara Agrawal (PW11), who, in her report (Ex.P9), has stated that during external examination of the prosecutrix she found that there was bleeding from the perineal injury. During internal examination, she found that hymen of the prosecutrix was ruptured. Fourchette was lacerated in the midline and the laceration had gone upward towards left side of vagina measuring 4 x 2 x 1½ cms. and bleeding was present there. The doctor has further stated that the prosecutrix was complaining of severe pain during internal examination. The doctor opined that there were signs of recent sexual intercourse and the duration of injuries was within 24 hours. The Appellant was medically examined by Dr. Mahaveer Agrawal (PW13). He gave his report (Ex.P14) in which he has stated that the Appellant was capable of performing sexual intercourse. On completion of the investigation, a charge-sheet was filed against the Appellant for offence punishable under Section 376 of the Indian Penal Code. Charge was framed against him under Section 376 of the Indian Penal Code.

4. In support of its case, the prosecution has examined as many as 13 witnesses. Statement of the Appellant was also recorded under Section 313 of the Code of Criminal Procedure in which he denied the circumstances appearing against him, pleaded innocence and false implication. No defence witness has been examined.
5. After trial, the Trial Court convicted and sentenced the Appellant as mentioned in the first paragraph of this judgment. Hence, this appeal.

6. Learned Counsel appearing for the Appellant argued that there are material contradictions in the FIR and the statements recorded in the Court. Statement of the prosecutrix has not been corroborated by the other evidence. The prosecution has failed to prove its case beyond doubt.
7. Per contra, Learned Counsel appearing for the State supported the impugned judgment.
8. I have heard Learned Counsel appearing for the parties and perused the record to assess the correctness of the impugned judgment of conviction.
9. The prosecutrix (PW4), aged about 12 years, has stated that at the time of incident, the Appellant tied up her legs, hands and gagged her mouth and forcibly committed rape with her.
10. Indirabai (PW1) has supported the above statement of the prosecutrix and stated that she saw that the prosecutrix was weeping and the Appellant had caught her hands. When she asked the prosecutrix why was she weeping, the Appellant left her hands and fled. At that time, blood stains were present on the clothes worn by the prosecutrix at the bottom and the prosecutrix told her that the Appellant had committed rape with her. She has further stated that she saw the private part of the prosecutrix at home and found that the prosecutrix was bleeding from there. Narayan Singh (PW2) and Prakash (PW3) have also supported the case of the prosecution and stated that they had also seen that the blood stains were present on the clothes of the prosecutrix. Dr. Tara Agrawal (PW11), who examined the prosecutrix and gave her report (Ex.P9), has stated that she found the above stated injuries.

All the above witnesses have remained firm in their deposition. I do not find any merit in this appeal.

- 11.** Consequently, the appeal deserves to be and is hereby dismissed.

Sd/-
(Arvind Singh Chandel)
Judge