

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 214 of 2014**

Toshan Lal S/o. Krishna Kumar Bhatt Aged About 26 Years R/o. Vill. Khairaghitti, P.S. Fingeshwar, Rev. & Civil Distt. Gariyaband (C.G.) At Present R/o. House Of Jitu Sahu, Sarora P.S. Urla, Rev. & Civil Distt. Raipur (C.G.)

---- Appellant**Versus**

State Of Chhattisgarh Through Police Station Urla, Raipur, Civil And Rev. Distt. Raipur C.G.

---- Respondent

For Appellant	: Ms. Laxmin Tondey, Advocate
For State/Respondent	: Shri Satish Gupta, Government Advocate

HON'BLE SHRI JUSTICE CHANDRA BHUSHAN BAJPAI**JUDGMENT****30/1/2017**

1. Challenge in this appeal is to the judgment of conviction and order of sentence dated 8.5.2013 passed by the 6th Additional Sessions Judge, Raipur (CG) in ST No.247/2012, whereby and whereunder the learned trial Judge after holding the appellant guilty for attempting to rape with the prosecutrix, PW5(name not mentioned), convicted him under Section 376 read with Section 511 of the Indian Penal Code (for short the 'IPC') and sentenced to

undergo R.I. for 5 years and to pay fine of Rs.1000/-, in default of payment of fine to undergo R.I. for 1 month.

2. The conviction is impugned on the ground that without there being any iota of evidence, the Court below has convicted and sentenced the appellant as aforementioned and thereby committed illegality.

3. As per case of the prosecution on 11.10.2012 the appellant attempted to commit rape with the prosecutrix PW5. The matter was reported to Police Station Urla on the same day. The Police have registered the crime as Crime No.264/2012 under Section 376 read with Section 511 IPC against the present appellant and after due investigation, charge sheet has been filed before the Judicial Magistrate First Class, Raipur, who had registered the same as Cr. Case No. 311/2012 and committed the same vide order dated 14.12.2012. The trial Judge has received the case on transfer and framed charges under Sections 376 read with Section 511 IPC.

4. In order to prove the guilt of the appellant, prosecution examined as many as 10 witnesses. Statement of the appellant was recorded under Section 313 Cr.P.C. in which he denied the circumstances appearing against him, pleaded innocence and false implication in the crime in question. The accused/appellant also examined 2 defence witnesses who had not said specifically anything for and against the appellant in the matter. After affording

opportunity of hearing to the parties, the learned Additional Sessions Judge convicted and sentenced the appellant as above.

5. I have heard Learned Counsel for the parties, perused the judgment impugned and record of the Court below.

6. Learned counsel for the appellant submits that as the appellant was arrested on 13.10.2012, he was not granted bail during trial and even after filing of the instant Cr. Appeal. The application of the appellant for suspension of sentence and grant of bail was denied by this Court and the accused/appellant has served the entire sentence after getting remission and thereafter he has been released.

7. On perusal of the entire material especially, the statement of prosecutrix PW5, she is not assailing the instant appeal on its merits and also on the sentence part.

8. Learned counsel for the State duly supported the judgment of conviction and order of sentence awarded by the trial Court.

9. Perused the entire evidence adduced by the parties during trial.

10. After consideration of the entire evidence adduced especially the statement of PW5, the prosecutrix who was niece of the present appellant has remained firm during her examination and there is a promptly lodged FIR and the other facts, it appears that the trial Court had not committed any error and there is no illegality in the

conviction and sentence awarded to the appellant. Looking to the entire conduct of the accused/appellant the sentence awarded by the trial Court may not be held as excessive. Even otherwise the accused/appellant had served the entire sentence awarded to him. The learned counsel is not assailing the instant Cr. Appeal on its merits, this Court is of the considered view that the trial Court had not committed any illegality or impropriety in convicting and sentencing the appellant in the matter.

11. Consequently, the appeal filed by the appellant is hereby dismissed.

Sd/-

(Chandra Bhushan Bajpai)

JUDGE