

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 605 of 2008**

- Arvind Mishra @ Bhaiyyan Mishra, S/o Bramhchari Mishra, Aged about 19 years, R/o Village-Nagrada, P.S. Sitamadhi, Distt.-Bhadoli, U.P.

---- Appellant**Versus**

- State Of Chhattisgarh Through District Magistrate, Dhamtari, C.G.

---- Respondent

For Appellant : Shri Santosh Bharat, Advocate.
For Respondent/State: Shri Anant Bajpai, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Judgment on Board

05/12/2018

1. This appeal has been preferred against judgment dated 06-08-2007 passed in S.T. No.01/2007 by the Sessions Judge, Dhamtari, C.G. convicting the appellant under Section 376(1) of the IPC and sentencing him with R.I. for 7 years along with fine Rs.500/- with default stipulation.
2. The case of the prosecution, in brief, is this that, on 25-08-2006 at about 11:00 a.m. the appellant by force entered into the house of the prosecutrix and then subjected her forcibly to sexual intercourse. Her cousin Ku. Kiran was though present, but being physically handicapped she could not help the prosecutrix in getting out of the clutches of the appellant. The FIR (Ex.-P/12) was lodged by the prosecutrix on the same day. After completion of the investigation charge sheet was filed before the concerned Court.
3. The appellant was charged with offence under Section 376(1) of the IPC, to which he denied and prayed for trial.

4. On completion of the prosecution evidence, the appellant was examined under Section 313 of the Cr.P.C. in which he denied all the incriminating evidence brought against him by the prosecution, pleaded innocence and false implication. No witness was examined in defence.
5. On completion of the trial, the impugned judgment was passed in which the appellant has been convicted and sentenced as aforementioned.
6. It is submitted by the counsel for the appellant that the appellant was in jail since 26-08-2006 and he was not released on bail and as he was punished for R.I. for 7 years, hence, he must have undergone the whole sentence. However, it is submitted that the conviction against the appellant is bad in law as the same has not been supported by the reliable and trustworthy witnesses of the prosecution.
7. Per contra, learned counsel for the State opposes the grounds raised in the appeal and the submission made in this respect and submits that the prosecution has proved its case beyond reasonable doubt. Therefore, the appeal may be dismissed.
8. Heard learned counsel for the parties and perused the record of the trial Court.
9. After closely scrutinizing the statement of the witnesses present in the record of the trial Court and after due consideration, I am of this opinion that the trial Court has not committed any error in coming to the conclusion to hold the appellant guilty for the offence under Section 376(1) of the IPC. Therefore, the appeal is without any

substance, hence, the same is hereby dismissed accordingly.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Aadil