

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 35 of 2014**

Dular Kewat @ Goteek S/o Teejram Kewat, aged about 49 years, R/o Village Nawapara, Police Station Nawagarh, Civil and Revenue District- Janjgir-Champa (C.G.)

----Appellant**Versus**

State of Chhattisgarh through In-charge of Police Station- Nawagarh District- Janjgir-Champa (C.G.)

---- Respondent

For Appellant	:	Mr. K.K. Singh, Advocate
For Respondent	:	Mr. N.K. Sharma, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Judgment on Board****24/02/2018**

1. None was present for the appellant today. Under the order of this Court, passed separately today, Mr. K.K. Singh, Advocate appears on behalf of the appellant and argues the matter.
2. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 10/07/2013 passed in S.T. No. 203/2012 by the Additional Sessions Judge (FTC), Janjgir-Champa (C.G.) convicting the accused/appellant under Section 376 of IPC and sentenced him to undergo RI for 7 years and to pay fine of Rs. 200/- with default stipulation.
3. Case of the prosecution, in brief, is that on 06/09/2012 a written report (Ex.P-9) was submitted by the prosecutrix (PW5), aged about 14 years, alleging that on 08/08/2012, the accused/appellant had taken her from

the legal guardianship of her parents, visited various places and committed sexual intercourse with her. Finally, he left the prosecutrix at his brother (Prosecutrix's brother) at Dheradhun and fled away. The matter was informed by the prosecutrix to her grand-mother. Thereafter, a written report was lodged by her. On the basis of the written report, a FIR (Ex.P-20) was lodged. The prosecutrix was examined by Dr. Smt. Mamta Jagat. The accused/appellant was also examined by Dr. R.D. Gupta (PW2). Statement of the witnesses under Section 161 of Cr.P.C were recorded. To guilt the accused/appellant, the prosecution has examined as many as 14 witnesses. No defence witness has been examined. Statement of accused/appellant under Section 313 of Cr.P.C was recorded, wherein he denied all the charges and pleaded his innocence and false implication in the case. After investigation, a charge-sheet under Sections 363, 366 and 376 of IPC was filed. Charges were framed. After trial, the trial Court has acquitted the accused/appellant under Sections 363 and 366 of IPC and convicted him under Section 376 of IPC and sentenced to undergo as mentioned in paragraph one of this judgment. Hence, this appeal.

4. Learned Counsel appearing for the appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that the matter is of the year 2012 and the appellant is facing the *lis* since last 6 years. It is further submitted that out of total jail sentence of 7 years, the appellant has already undergone about 5 years 6 months, therefore, the jail sentence awarded to him may be reduced to the period already undergone by him.

5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.
7. It is not in dispute that the matter relates to the year 2012 and the appellant is facing the *lis* since last about 6 years. Moreover, out of total jail sentence of 7 years, he has already undergone about 5 years 6 months.
8. Considering the above facts and circumstances, I am of the considered opinion that the ends of justice would be met if, while upholding the conviction imposed upon the appellant, the jail sentence awarded to him is reduced to the period already undergone by him.
9. Consequently, the appeal is partly allowed. The conviction imposed upon the appellant under Section 376 of IPC is upheld, but the jail sentence awarded to him is reduced to the period already undergone by him. The fine sentence imposed upon him is also affirmed.
10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
Judge