

HIGH COURT OF CHHATTISGARH, BILASPUR

(SB: Hon'ble Mr. Justice Ram Prasanna Sharma)

CRA No. 90 of 2010

- Jantu Ram S/o Lakhan Ram R/o Village Koudokhasgoan, PS Antagr, District Uttar Bastar, Kanker (CG).

---- Appellant.

Versus

- State of Chhattisgarh through Police Station Antagr, District Uttar Bastar, Kanker (CG).

---- Respondent

For Appellant : Mr. Vishnu Koshta, Advocate.

For Respondent/State : Ms. K. Tripti Rao, PL.

**Judgment on Board
(21-08-2018)**

1. This appeal is preferred under Section 374 (2) of the Code of Criminal Procedure against the judgment of conviction and order of sentence dated 21-1-2010 passed by Additional Session Judge (FTC), Bhanupratappur, District Uttar Bastar, Kanker (CG) in Sessions Trial No. 61 of 2009 whereby the said Court convicted the accused/appellant for commission of offence under Sections 366 and 342 of the IPC 1860 and sentenced him to undergo RI for five years and fine of Rs.500/- and RI for one year respectively with default stipulations.
2. As per prosecution case, on 9-5-2009 at about 6.00 pm prosecutrix was returning after checking one Tendu Leaves centre at village Bullwand and at the same time the appellant

abducted her with intent that she may be compelled to marry him and confined her to his house.

3. The matter was investigated and the appellant was charge-sheeted. After completion of trial, the trial Court convicted the appellant as mentioned above.

4. Learned counsel for the appellant submits as under:

i) Looking to the evidence of the prosecutrix it may be a case of affection between both sides and therefore, offence under Section 366 of IPC is not made out.

ii) The prosecutrix walked on foot with the appellant for a great distance which shows her consent to accompany with the appellant.

iii) As the prosecutrix is a consenting party, offence of abduction for compelling her to marry or wrongful confinement is not made out.

5. On the other hand, learned State counsel supporting the impugned judgment submits that the finding of the trial Court is based on proper marshaling of evidence and the same is not liable to be disturbed.

6. I have heard learned counsel for the State, perused the judgment impugned and record of the trial court.

7. In the present case, date of incident is 9-5-2009 and the matter was reported on 14-5-1009 at PS Antagarh. FIR is naming the

appellant. Prosecutrix (PW/1) deposed before the trial court that it is the appellant who caught hold of her hands and dragged her to marry him. As no one came to rescue her, the appellant took her to village Koudhokhasgaon and locked her in a room. This witness is subjected to searching cross-examination but nothing could be elicited in favour of the appellant. Version of this witness is supported by the version of PW/3 Siyaram, PW/2 Ku. Parameshwari, PW/4 Jayaram and PW/5 Shobharam to whom the incident was informed. Again version of this witness is supported by the version of Investigating Officer. All these witnesses have been cross-examined at length but they are unshaken. The testimony of the above witnesses goes to show that the prosecutrix was not a consenting party to accompany with the present appellant. Again from the statements of the prosecution witnesses, it is established that the appellant compelled her to go with him. It is abundantly clear from the evidence that the appellant was compelling her to marry him and that is why he confined her into his house.

8. Abducting any woman with intention to compel her to marry is an offence punishable under Section 366 of the IPC and confining a person within a limit is an offence under Section 342 of the IPC for which the trial Court convicted the appellant. On over-all

assessment of the evidence, this court has no reason to disturb the finding recorded by the trial Court.

9. Learned counsel for the appellant would further submit there is material contradiction in the statements of the prosecution witnesses.
10. In view of this court, looking to the evidence in its entirety, there is no material contradiction regarding abduction of prosecutrix and confining her into the house, therefore, argument advanced by the appellant is not sustainable. On evaluating the evidence as a whole, the finding arrived at by the trial Court regarding conviction part is hereby affirmed.

Heard on the point of sentence.

11. From the record, it is clear that the appellant suffered jail sentence from 16-5-2009 to 8-6-2009 and again from 21-1-2010 to 18-2-2011 which comes out to one year and two months. Considering all the facts and circumstances of the case and looking to the nature of offence, this court of the opinion that no useful purpose would be served to send the appellant behind the bar again and ends of justice would be served if the jail sentence is reduced to the period already undergone by him while maintaining the conviction. Accordingly the jail sentence awarded by the trial Court for commission of offence under Section 366 of the IPC is reduced to the period already gone by

the appellant. As the appellant has suffered full term of jail sentence awarded by the trial Court for commission of offence under Section 342 of IPC, reduction on that part is not required.

12. With the aforesaid modification the appeal is partly allowed on the point of sentence and the fine amount awarded by the trial Court will remain intact.

Sd/-

(Ram Prasanna Sharma)
JUDGE

Raju_