

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 208 of 2009

- Jageshwar s/o Vishal Sahu, aged 21 years, resident of village Sarekhja, Police Station Kawardha, District Kabirdham.

---- Appellant.

Versus

- State of Chhattisgarh Through P.S. Kawardha, Distt.-Kabirdham CG.

---- Respondent

For Appellant : Mr. Amiyakant Tiwari, Advocate.
For Respondent/State : Mr. Lav Sharma, Panel Lawyer.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment on Board

22-10-2018

1. This appeal is preferred against the judgment of conviction and order of sentence dated 6-3-2009 passed by the Sessions Judge, Kabirdham (Kawardha) (CG) in Sessions Trial No. 35 of 2007 wherein the said Court convicted the appellant for commission of offence under Section 376 (1) of the Indian Penal Code, 1860 and sentenced him to undergo rigorous imprisonment for seven years.
2. In the present case, prosecutrix is PW/7. As per version of the prosecutrix, she went to her brother-in-law for some work and when she reached near the house of one Guruwa, the appellant came there from behind, caught hold her, removed her undergarments and then committed rape on her. Witnesses have been subjected to searching cross-examination at length, but

nothing could be elicited in favour of defence. Her version is of sterling quality and there is nothing to discard her testimony. Version of this witness is supported by version of PW/8 Meela Bai, who is mother of the prosecutrix to whom she narrated the entire story. PW/12 Goverdhan is brother of the prosecutrix who also supported the version of prosecutrix. PW/14 Ramdayal is father of the prosecutrix who also supported the version of prosecutrix. All the witnesses have been subjected to incisive cross examination, but they are unshaken.

3. In the present case, date of incident is 31-3-2007 and the matter was reported at Police Station Kawardha on the date of incident in which name of the appellant is mentioned as culprit. In this way, direct evidence is supported by the documentary evidence. Smt. Premlata Jangda (PW/13) is the Medical Officer who examined the prosecutrix on 1-4-2007 at District Hospital, Kabirdham and found that her hymen was ruptured in which there was bleeding.
4. From the statement of the prosecutrix, other supportive piece of evidence and the evidence of medical expert, it is clearly established the guilt of the appellant which is punishable under Section 376 (1) of the IPC for which the trial Court has convicted and sentenced the appellant and the same is hereby affirmed. The trial Court awarded the minimum sentence and less than

minimum sentence cannot be awarded. Sentence part is also not liable to be interfered with.

5. Accordingly, the appeal is liable to be and is hereby dismissed.

As per report received from Central Jail, Durg, the appellant has suffered full jail term after deductions and has been released from jail on 15-4-2014, therefore, no further order for his arrest etc. is required.

Sd/-
(Ram Prasanna Sharma)
JUDGE

Raju