

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 5-12-2018****Pronounced on 6-12-2018****CRIMINAL APPEAL No. 1145/2001**

(Arising out of judgment of conviction and order of sentence dated 7-3-1998 passed by 1st Additional Sessions Judge, Ambikapur, Distt. Sarguja (MP) (now CG) in ST No. 328/1996)

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Surendra Kumar son of Jokhu Ram, aged 22 years, occupation Motorcycle mechanic, R/o. Budhiyachua, P.S. Ambikapur, Distt. Sarguja (MP) (now CG)

---Appellant**-VERSUS-**

State of Madhya Pradesh (now Chhattisgarh), Station House Officer, PS Ambikapur, Distt. Sarguja (MP) (now CG)

---Respondent

For appellant : Ms. Meenu Banerjee, Adv.

For respondent/State : Shri A.K. Swarnkar, P.L.

Hon'ble Shri Sharad Kumar Gupta, Judge**C.A.V. JUDGMENT**

1. In this criminal appeal the challenge is levied to the judgment of conviction and order of sentence dated 7-3-1998 passed by 1st Additional Sessions Judge, Ambikapur, Distt. Sarguja (MP) (now CG) in ST No. 328/1996 whereby and whereunder he convicted and sentenced the appellant as under :-

Offence u/S.	Sentence RI for
363, IPC	7 Years
366, IPC	7 Years
376(1), IPC	7 years

All the jail sentences are directed to run concurrently.

2. In brief the prosecution story is that the prosecutrix was 15 years old in intervening night of 9 – 10 May, 1996. She was resident of village Khairwar. In the said intervening night she was not found in the house, her father lodged a report against the appellant and two other persons. During investigation it was found that he took her on the pretext of marriage and committed sexual intercourse with her. After completion of investigation, a charge sheet was filed against the appellant. After completion of trial, trial Court convicted and sentenced the appellant as aforesaid. Before examination of the prosecution witnesses prosecutrix had died.
3. Being aggrieved, appellant has preferred this criminal appeal.
4. Counsel for the appellant Ms. Meenu Banerjee, argued that Trial Court has not appreciated the evidence in proper perspective. Thus, the conviction and sentences of the appellant are bad in eyes of law. Hence, appellant may be acquitted of the aforesaid charges.
5. Counsel for the State argued that the conviction and sentences of the appellant are based on clinching evidence. The conviction and sentences of the appellant do not call for any interference by this Court.
6. P.W. 1 Dharamsai who is father of the prosecutrix says in para 1 of his statement given on oath that prosecutrix was 13 – 14 years old. She had told him that appellant eloped her after giving the threatening and committed rape with her.
7. P.W. 3 Satrangi who is mother of the prosecutrix says in para 1 of her statement given on oath that her daughter was 13 years old.

8. Looking to the aforesaid facts and circumstances, this Court finds that prosecution has succeeded to prove the charges punishable under Sections 363, 366 and 376(1) of the IPC against the appellant.
9. Thus, this court finds that trial Court has not committed any illegality in convicting and sentencing the appellant as aforesaid. Hence, the appeal deserves to be dismissed. The appeal is accordingly dismissed. The conviction and sentences of the appellant are hereby affirmed.
10. As per the report received from the office of the Superintendent, Central Jail, Bilaspur dated 28-11-2018, the appellant has been released on 28-2-2002 after getting the benefit of remission extended to him. Thus, no further order is required.

Sd/-
(Sharad Kumar Gupta)
Judge