

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**Criminal Appeal No. 901 of 2001**

Roopeshkumar, S/o. Phooldas Manikpuri, Aged about 27 years, R/o. Village Chhura, P.S. Chhura, District Raipur, Chhattisgarh.

---- Appellant

Versus

State Of Chhattisgarh, Through : Police Station- Chhura, District Raipur, Chhattisgarh.

---- Respondent

 For Appellant : Ms. Sofia Khan, Advocate
 For State/Respondent : Ms. M. Asha, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****10.02.2018**

1. This appeal is against the judgment dated 09.08.2001 passed by the learned Third Additional Sessions Judge, Raipur, in Sessions Trial No.108/94 whereby the appellant has been convicted under Section 366 for 5 years R.I. and fine of Rs.1000/- and in absence of payment of fine 2 months R.I., under Section 354 of I.P.C. for 2 years R.I. and under Section 506 of I.P.C. for 6 months R.I. was ordered for.
2. As per the prosecution case, on 13.12.1993 at about 6 p.m. the victim was going back for selling of the vegetable to her village alongwith one Shrawan, at that time, the appellant came there near a place Chhura caught hold of her and dragged her and said that he will keep the victim in his house. The same was objected by the other persons but on the point of Knife threat was extended and victim was forcefully taken and during such course he pressed her breast, thereby tried to outrage the modesty. In the meanwhile, a report was made by one Raman Lal by Ex.P-6 and the victim was recovered from the house of the appellant by Panchnama Ex.P-2. The Knife was seized by Ex.P-3 and during the course of incident while scuffle took place the victim sustained injury, therefore, she was

subjected to medical checkup by Ex.P-7. After investigation, the charge sheet was filed under Section 324, 506-B, 354 & 366 of I.P.C.

3. During the course of trial, the appellant/accused abjured the guilt and claimed to be tried. The trial Court after evaluating the evidence and facts, convicted the accused/appellant. Hence this appeal.
4. Learned counsel for the appellant would submit that the statement of the victim PW-7 would show that she herself had gone and stayed along-with the appellant and there was no forceful compulsion committed by the appellant to keep the victim in her possession. She further submits that the statement of the eye-witness are contradictory; therefore, the conviction so made is without any evidence, which requires to be set aside.
5. Per contra, learned State counsel opposes the argument advanced by the learned counsel for the appellant and would submit that the order of conviction is well merited, which do not call for any interference.
6. I have heard learned counsel appearing for the parties and perused the records.
7. Perused the documents. The victim is examined as PW-7. According to her statement while she was going along-with Rohit Kumar (PW-3) and his son namely Raman Lal (PW-6) to village in the road the appellant came, caught hold of her and dragged her. She further stated that it was objected by the other witnesses then on the point of Knife, the other persons were threatened i.e. PW-3 & PW-6; therefore, they fled away. The same statement is supported by Rohit Kumar (PW-3) and Raman (PW-6) who lodged the FIR as Ex.P-5. He has also supported the same thing, however, both the witness have not supported the fact that threat was extended to kill was made by the appellant. PW-6, Raman Lal, has stated that after he saw the Knife in the hand of the appellant, he himself fled

away. The allegations of threat to kill by life has not been fully supported by witnesses. The FIR (Ex.P-6) is further been supported by PW-9, Dauwaram, who is Constable and has supported the fact, therefore, with respect to FIR i.e. Ex.P-6 no contradiction appears to be exists on the face of it as compared to the statement of witnesses.

8. Further the statement of PW-7 would show that she narrated that the appellant caught hold of her hand on the point of Knife and dragged her to the forest; thereafter, she has stated about outraging her modesty. Punit Ram (PW-1) has stated about the scuffle and dragging by the appellant to the victim and Rohit (PW-3) has stated that the victim who is the mother was dragged by Rupesh towards the forest. The similar facts are supported by Chhabilal (PW-4) & Ramanlal (PW-6) and they have further corroborated the fact that the appellant Rupesh Kumar has dragged the victim who was riding the cycle in carrier and had took her towards forest by force. Thereby the statement of the witnesses show that to outrage the modesty, the appellant has exercised the criminal force.
9. The victim (PW-7) further stated that while she was dragged, the appellant has disclosed that he wanted to keep the victim in her house and thereafter she was forcefully taken to the Jungle and came back at about 8 O'clock in the house when the police reached there. She was recovered from the house of the appellant by Ex.P-2 at about 10 p.m. This fact is supported by Chhabilal (PW-4) and Head Constable Dauwaram (PW-9). Therefore, considering the statement of the witnesses, it appears that the prosecution was able to prove that the appellant forced to abduct the victim (PW-7) to keep her in his house and dragged her to the forest, thereafter outraged her modesty and subsequently she was recovered from the house of the appellant. The activity committed would show that it was done with intention to perform marriage and thereby keep the victim in the house of the appellant. The statement of the victim (PW-7) along-

with Rohit (PW-3) and Raman Lal (PW-6) would show that the prosecution was able to prove the incident and no plausible explanation has been given by the appellant in the statement under Section 313 of Cr.P.C. In view of this, the conviction made by the Court below appears to be justified.

10. Now with respect to the sentence, the record would suggest that the appellant has suffered the jail sentence of 1 year 1 month and 20 days and the record would further suggest that the appellant though was enlarged on bail by this Court on 14.01.2002 but it reveals that he has not furnished the bail and therefore it appears that he has suffered the entire jail sentence.
11. In view of this, no further observation requires in respect of the jail sentence. Accordingly, the appeal stands disposed of.

Sd/-
(Goutam Bhaduri)
JUDGE