

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1069 of 2001

(Arising out of judgment dated 03.05.2001 in Sessions Trial No. 243 of 2000 passed by the learned Sixth Additional Sessions Judge, Raipur, Chhattisgarh)

- Arjun Satnami, S/o Ganesh Satnami, Aged about 32 years, Resident of Village Tendua, PS Urla, district- Raipur (CG)

---- Appellant

Versus

- State Of Chhattisgarh, through Police Station Urla, district- Raipur (CG)

----Respondent

For Appellant	:	None appears
For Respondent/State	:	Ms Tripti Rao, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta
Judgment on Board

04.01.2018

1. In this Criminal Appeal, the challenge is levied to the judgment of conviction and order of sentence dated 03.05.2001 passed by the Sixth Additional Sessions Judge, Raipur in Sessions Trial No. 243 of 2000 whereby and whereunder the appellant has been convicted for the offence punishable under Section 376 of the Indian Penal Code, 1860 (hereafter called to as 'IPC') and sentenced to undergo RI for

eight years; to pay fine of Rs.1,000/-; and in default of payment of fine, to further undergo RI for six months.

2. It has been categorically admitted by the appellant that he is father of the prosecutrix and her mother is Dashari Bai. Dashari Bai left him and performed second marriage with one Nandlal. Suresh is brother of the prosecutrix. Prosecutrix and Suresh were residing with him in village Tendua. He also performed second marriage. At the time of the incident, step mother of the prosecutrix had gone to her matrimonial house for delivery.

3. In brief, the prosecution story is that at the time of the incident, the prosecutrix was 12 years old. In the year 2000, 4-5 days before the Ramnavami festival, near about 2 am, the prosecutrix and her brother- Suresh were sleeping in one room. The appellant came in their room and asked the prosecutrix to come with him and massage his hands and legs. When she denied to do so, he lifted her forcibly and took her in his room. At that time, Suresh woke up. In his room, the appellant committed forcible sexual intercourse with the prosecutrix and threatened for her life if she disclose the incident to anybody. After 26-27 days, when she went to her maternal uncle- Manthir Tandon's place, she disclosed the incident to her grandmother Ramkuwar Bai. On 05.05.2000 she lodged FIR in Police Station- Urla against the appellant. After completion of the investigation charge-sheet has been filed against the appellant. The trial Court had framed the charge against the appellant under Section

376 of the IPC. After conclusion of the trial, the trial Court convicted and sentenced the appellant as aforesaid.

4. Being aggrieved, the appellant filed this Criminal Appeal.

5. As per report of the Office of the Jail Superintendent, Central Jail, Bilaspur, dated 17.08.2017, the appellant has been released on 07.08.2006 on completion of sentence.

6. Learned counsel for the appellant submits that there is no direct evidence against the appellant. The appellant has been falsely implicated in the case.

7. Learned State counsel supported the impugned judgment of conviction and order of sentence and submitted that the appellant has rightly been convicted and sentenced on the basis of the evidence available on record.

8. As per the alleged report (Ex.P/6), the appellant was examined by Dr.AA Saify (PW- 8), who opined that the appellant was capable to perform sexual intercourse.

9. Dr Usha Gupta (PW-13) had conducted medical examination of the prosecutrix. She opined in the alleged report (Ex.P/10) that intercourse was done with the prosecutrix.

10. As per the alleged examination report (Ex.P/9) by Dr. BB Ahluwalia (PW-11), age of the prosecutrix is between 12-13 years at the time of the incident.

11. As per the RFSL report (Ex.P/14), semen and sperm were found on the slide, Article "A" and underwear, Article "B".

12. Prosecutrix (PW-1) in her evidence on oath at para- 1 stated that her step mother had gone to matrimonial home for delivery; she along with her brother- Suresh were sleeping in the room; at about 2 am, the appellant came there and asked her to come with him for massage of his hands and legs; when she denied to do so, the appellant lifted her forcefully and took her to his room. There he committed rape on her.

13. Suresh (PW-2) in his evidence on oath stated that his father was pulling the *nada* and clothes of the prosecutrix.

14. Dashari Bai (PW-3), Manthir Tandon (PW-4) in para- 2, Surtiya (PW-5) and Ram Kumar Bai (PW-12) in para- 1 have categorically stated in their evidence that the prosecutrix had told them that the appellant had committed forceful sexual intercourse with her.

15. As per the alleged seizure Ex.P/3- one underwear of the prosecutrix, Ex.P/4- two sealed packets and Ex.P/5- one birth and death registers were seized. According to the photocopy of birth and death register - Ex.P/15(c), date of birth of the prosecutrix is 27.08.1987.

16. In the alleged FIR (Ex.P/1), the incident has been described with the specific role of the appellant.

17. There is no evidence on record on the strength of which it could be said that Ex.P/1, Ex.P/3, Ex.P/4, Ex.P/5, Ex.P/6, Ex.P/8, Ex.P/9, Ex.P/10, Ex.P/14, Ex.P/15(c), statements of the prosecutrix (PW-1), Suresh (PW-2), Dashari Bai (PW-3), Manthir Tandon (PW-4), Surtiya (PW-5) and Ramkuwar Bai (PW-12) are not normal, simple and natural.

18. Looking to the above-mentioned circumstances, this Court finds that the trial Court has not committed any error in convicting and sentencing the appellant as mentioned above.

19. Thus, the appeal being devoid of substance, deserves to be dismissed and it is hereby dismissed.

20. As the appellant has already been set at liberty on completion of his sentence, no further order is required.

Sd/-
(Sharad Kumar Gupta)
Judge