

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 513 of 2009**

Patram Panika, aged 25 years, S/o Fagun Lal, R/o village- Sonmuda
(Dabari- Para), P.S.- Pendra, District- Bilaspur (C.G.)

---- Appellant

Versus

State of Chhattisgarh, through Police Station - Gourela, District-
Bilaspur (C.G.)

---- Respondent

For Appellant : None.

For State/respondent : Mr. Vinod Kumar Tekam, PL.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board

10/12/2018

1. Mr. Yogeshwar Sharma, Advocate has been engaged for arguing the case on behalf of the appellant. Despite repeated calls, he has not appeared when the case is called for final hearing, therefore, Mr. Amiyakant Tiwari, Advocate, who is present in the Court has been appointed as *Amicus Curiae* to argue the case on behalf of the appellant.
2. This appeal is preferred under Section 374 (2) of the Code of Criminal Procedure, 1973 against judgment dated 11.12.2007 passed by Additional Sessions Judge, Pendra, District- Bilaspur (C.G.) in Session Trial No. P18/2007, wherein the said court convicted the appellant for commission of offence under Section 376 (1) of IPC, 1860 and sentenced to undergo R.I. for 7 years and fine of Rs. 200/- with further default stipulations.

3. In the present case, prosecutrix is PW-1. As per version of the prosecution, the prosecutrix is resident of Bhagat Singh Ward, Old Gourela, who was studying in class-VI. After leaving the school, she was working as labour in Poha Mill of one Kamlesh Agrawal. The appellant and others were also working in the said mill. The appellant made physical relation with the prosecutrix without her consent and against her will that is why the matter was reported, the appellant was charge-sheeted and after completion of trial, the trial court convicted as mentioned above.
4. This appeal is preferred on the following grounds :-
 - (i) The prosecutrix kept mum in the matter for a long period, therefore, her version is not reliable.
 - (ii) No birth register was produced before the trial court, therefore, age of the prosecutrix cannot be ascertain on the evidence adduced by the prosecution.
 - (iii) Delay in lodging report is not explained. The finding arrived at by the trial court is not sustainable and the same is liable to be reversed.
5. Learned State counsel submits that the finding arrived at by the trial court is based on proper marshaling of evidence and the same does not warrant any interference of this Court with invoking jurisdiction of the appeal.
6. The prosecutrix (PW-1) deposed that the appellant committed sexual intercourse with her against her will and without her

consent. He had promised with her to marriage that is why she did not complain and again, he threatened her that is why also, she did not complain. When the appellant harassed her regularly. She informed about the matter to her mother and thereafter, report was lodged. Version of the prosecutrix is supported by version of Smt. Meena (PW-2) who is mother of the prosecutrix. Again, her version is supported by version of Dr. N.S. Paikra (PW-3) who examined the appellant and found him capable of intercourse. All the witnesses have been subjected to searching cross-examination, but nothing could be elicited in favour of the defence.

7. There is no material contradiction and omission in the statement of the prosecutrix and other witnesses. Minor contradictions which do not go to the root of the case are insignificant and therefore, minor contradictions have no adverse affect to the entire case of the prosecution.
8. The statement of the prosecutrix is quite natural, inspires confidence and merits acceptance. In the traditional non-permissive bounds of society of India, no girl or woman of self respect and dignity would depose falsely implicating somebody of ravishing her chastity by sacrificing and jeopardizing her future prospect. Evidence of the prosecutrix to be followed at par with an injured witness and when her evidence is inspiring confidence, no corroboration is necessary.

9. It is true that there is delay in lodging report. From statement of the prosecutrix, it is clear that she was fearful of threatening by the appellant and he had falsely promised her of marriage that is why report was lodged with delay. Where report of rape is to be lodged many questions would obviously crop up for consideration before one finally decides to lodge the FIR. It is difficult to appreciate the plight of victim who has been criminally assaulted in such a manner. Obviously prosecutrix must have also gone through great turmoil and only after giving it a serious thought, must have decided to lodge the FIR. Precisely this appears to be the reasons for delayed FIR. The delay in case of sexual assault, cannot be equated with the case involving other offences. There are several factors which weigh in the mind of the prosecutrix and her family members before coming to the police station to lodge complaint. In a tradition bound society prevalent in India, more particularly, rural areas, it would be quite unsafe to throw out the prosecution case merely on the ground that there is some delay in lodging the FIR.
10. The trial court has elaborately discussed the entire evidence and after reassessing the evidence, this Court has no reason to record contrary finding. Commission of rape by the appellant is offence punishable under Section 376 (1) of IPC for which the trial court convicted the appellant and the same is not liable to be interfered with and conviction of the appellant is hereby affirmed.

Heard on the point of sentence

11. The trial court awarded R.I. for 7 years which cannot be termed as harsh, disproportionate or unreasonable looking to the gravity of offence and the same is not liable to be interfered with. The sentence part is also not liable to be interfered with. Accordingly, the appeal is liable to be and is hereby dismissed.
12. It is reported that the appellant has suffered full jail sentence and has been released from jail after getting benefit of remission, therefore, no further order of arrest etc. is required.

Sd/-
(Ram Prasanna Sharma)
Judge