

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL APPEAL NO. 878 OF 2007

Sunderlal S/o Budhram, Aged about 28 years R/o Sargipal para,
Kondagaon, Distt. Bastar.

... Appellant

Versus

State of Chhattisgarh through Police Station AJAK, Jagdalpur, Dist.
Bastar (CG).

... Respondent

For Appellant	:	Shri NK Malviya, Advocate.
For Respondent/State	:	Shri Anand Dadariya, Dy. Govt. Advocate and Shri Suryakant Mishra, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

JUDGMENT ON BOARD

On 06.01.2018

1. The appellant stands convicted for the offence punishable under Section 376 IPC and has been sentenced to undergo RI for 7 years and fine of Rs.5000/- with default stipulation vide judgment dated 08.08.2007 passed by the Special Judge (SC & ST) Bastar in Sessions Trial No.49/2007.
2. The case of the prosecution is that, the present appellant is said to have on 16.12.2006 caught hold of the prosecutrix in the middle of the field and is said to have raped her. A report in this regard was lodged on the very next day morning on 17.12.2006. Thereafter, on investigation the appellant was arrested and after completion of investigation, the matter was put to trial before the Special Judge (SC & ST), Bastar, and the appellant was charged for the offence under Section 376 IPC. Initially one Hadi and his wife Jayanti @ Itwari was

also made accused and were charged for the offence punishable under Section 120-B IPC, but for want of sufficient evidence against them, they were acquitted of the charges, however, the present appellant was found guilty of committing the offence.

3. The contention of the appellant assailing the conviction is that the entire prosecution story seems to be a case of false implication and that the present appellant is an innocent person who has been falsely implicated in the case. He further submits that even otherwise if we read the statement of the prosecutrix, it would reveal that she was a consenting party to the physical relationship that she had with the main accused Sunderlal. The appellant tried to refer to the statement of the prosecutrix wherein she has stated that if the appellant would not have snatched the jewelery which she was wearing at the time of incident, she perhaps may not have lodged a report which shows that she was not aggrieved more of the allegation of rape, but she was aggrieved of snatching and looting her jewelery by the appellant. Thus, prayed for setting aside the judgment of conviction and for acquitting the appellant from the charges levelled against him.
4. The State counsel, on the contrary, opposing the appeal submits that the prosecution case stands infact proved from the statement of prosecutrix herself and that there is no reason to disbelieve the version of the prosecutrix. It was further contended that the prosecutrix has narrated the entire incident with clarity and also by specifically naming the accused Sunderlal of having raped her and thus prayed for rejection of the appeal.

5. I have heard the counsel appearing for the parties.
6. In a case where the charge is under Section 376 IPC, the pertinent factor which has to be looked into is the statement of prosecutrix. In the instant case, the prosecutrix was examined as PW-1. She was the middle age 40 years old lady. She has in her statement very specifically narrated the incident that she went to village Amabal and that on the night of 16.12.2006 she had gone to Bus stand for catching the Bus for her village, but as she was pretty late, the Bus has already left which forced her to go back village Amabal. Enroute, she met two persons Hadi and his wife Jayanti @ Itwari. Initially these two persons asked the prosecutrix to stay back in their house which the prosecutrix was reluctant and that when Hadi told his wife to drop her at her village and accordingly Jayanti and the prosecutrix were leaving together from the field when suddenly the appellant Sunderlal is said to have reached the spot and out of fear said Jayanti Bai fled from that area and the appellant is said to have pushed the prosecutrix on the field and is said to have committed sexual intercourse with her.
7. There is not much which has been extracted by the defence in his cross examination of the prosecutrix with which the statement of prosecutrix could be doubted in any manner. There is also no indication of the fact that the prosecutrix and the appellant were known to each other earlier or that there was any sort of relationship between the two. There is also no evidence in this regard by the defence to show that there was some sort of enmity between the two with which she falsely implicated the

appellant. In the absence of any of the aforesaid factors, there is no reason to disbelieve or doubt the statement of the prosecutrix.

8. Accordingly, given the facts and circumstances of the case and the evidence which have come on record, this court does not find any illegality or infirmity on the part of the trial court in reaching to the conclusion holding the appellant guilty of offence under Section 376 IPC. Thus, affirming the judgment of conviction and the sentence imposed, the appeal deserves to be and is hereby dismissed.
9. From the record it appears that the appellant was never granted bail by this court and by efflux of time the appellant has completed his sentence and has been released from jail on 20.10.2012 and thus, no further steps is required to be taken in the light of rejection of the appeal.

Sd/-
(P. Sam Koshy)
Judge