

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.A. No. 663 of 2014

Roshan Gandharv, S/o. Latel Gandharv, Aged About 28 Years, R/o. Village Malhar, P.S. Masturi, Distt. Bilaspur C.G..

---- Appellant

Versus

State Of Chhattisgarh, Through : The District Magistrate Bilaspur C.G..

-----Respondent

For Appellant	: Mr. R.K. Gupta, Advocate
For Respondent/State	: Mr. Vijay Bahadur Singh, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

13/12/2018

1. This appeal has been preferred against the judgment of conviction and order of sentence, passed by the Additional Sessions Judge (F.T.C.), Bilaspur, District – Bilaspur (C.G.), in Sessions Trial No.104/2013 on 30.12.2013, convicting the appellant for the offence under Section 376 (1) of the Indian Penal Code and sentencing him for rigorous imprisonment for a period of 7 years and fine of Rs.5000/- and in default of payment of fine, R.I. for 6 months more.
2. The case of the prosecution is this that on 09.03.2013 at about 12.00 o'clock in the morning, when the prosecutrix (P.W.-1) had been to the agricultural fields and was doing agricultural operations.

When the appellant came on the spot and by force committed the offence of rape with her. The prosecutrix immediately informed about the incident to her family members and thereafter, the unnumbered FIR was lodged in the police out post – Malhar vide Ex.P-1, which was again registered as numbered FIR vide Ex.P-12 in the police Station – Masturi. The prosecutrix was medically examined and the findings were reported by the examining doctor vide Ex.P-9. Clothes of the prosecutrix was examined by the doctor, which was sealed and handed over to the investigation officer. Prosecutrix was also examined radiologically and report vide Ex.P-11 was given. The appellant was examined by the doctor and found that he was physically fit for having sexual intercourse. Investigation was conducted and after completion of investigation, charge-sheet was filed before the concerned Court.

3. Appellant was charged with offence under Section 376 (1) of the Indian Penal Code. The appellant denied the charges and prayed for trial. The prosecution examined as many as 11 witnesses on its behalf. On examining the appellant under Section 313, he denied all the incriminating evidence against him and pleaded innocence and false implication. No witness was examined in defence. On completion of trial, judgment has been delivered, in which the appellant stands convicted and sentenced as mentioned aforesaid.
4. It is submitted by the learned counsel appearing on behalf of the appellant that no case is made out for conviction of the appellant according to the evidence present on record of the trial Court. It is

also submitted that the appellant has been released from the jail after completion of sentence of imprisonment imposed upon him including remission in sentence given by the State time to time.

5. Counsel for the State opposes the grounds raised in appeal and the submissions made in this respect. It is submitted that the prosecution has proved its case beyond all reasonable doubts. Hence there is no room for interference in the impugned judgment, hence, the appeal be dismissed.
6. I have heard the learned counsel for the parties and perused the record of the Court below.
7. After closely scrutinizing the evidence of all the relevant witnesses, in this case and after due consideration I am of this view that the trial Court has not committed any error in coming to the conclusion that it was the appellant, who had committed the offence of rape with the prosecutrix.
8. Resultantly, this appeal has no merit and it is dismissed accordingly

Sd/-
(Rajendra Chandra Singh Samant)
Judge