

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 565 of 2012

Mehatter Kenwat S/o Jatiram Kenwat, aged about 22 years, R/o
Motisagar Para, P.S. Kotwali Korba, Tahsil Korba, District Korba
(CG)

---- Appellant

Versus

State of Chhattisgarh through the Incharge Officer, P.S. Kotwali
Korba, Tahsil Korba, District Korba, C.G.

---- Respondent

For the Appellant	:	Shri Akhil Agrawal, Advocate
For the Respondent/State	:	Smt. M. Asha, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Judgment On Board

23/06/2018

The appeal is of the year 2012. Since there was no representation on behalf of the appellant, this Court thought it fit engaging Shri Akhil Agrawal, advocate for assisting this Court for final disposal of the appeal. The High Court Legal Services Authority should ensure providing necessary authorization letter in favour of Shri Akhil Agrawal, advocate for representing the appellant in this appeal.

2. The appellant stands convicted for the offence punishable under Sections 363, 342, 376(2)(f) of IPC and sentenced to undergo RI for two years with fine of Rs.1,000/- u/s 363, RI for six months u/s 342 and RI for ten years with fine of Rs.5,000/- u/s 376(2)(f) of IPC with default stipulations vide order dated 03.05.2012 passed by the Sessions Judge, Korba (CG) in Sessions Trial No. 115/2010.

3. As per the prosecution case, on 10.06.2010 in the morning, the appellant is said to have on the pretext of providing some chocolate to the prosecutrix, a 7 years old child, taken her to river bank where the appellant is said to have tied her hands and feet, undressed her and ravished her. During the course of incident, the prosecutrix raised an alarm and hearing her cries, PW-4 Ramesh & PW-5 Ram Singh along with other persons reached the spot and caught hold of the appellant red handed committing the offence. Thereafter, the appellant was brought to village and later handed over to the Police. The appellant was put to trial in Sessions Trial No. 115/10 before the Sessions Court, Korba.

4. During the course of trial, the prosecution examined as many as 10 witnesses and there was no witness examined in defence.

5. The trial Court taking into consideration the evidences which have come on record vide impugned judgment dated 03.05.2012 found the appellant guilty for the offence punishable under Sections 363, 342, 376(2)(f) of IPC and accordingly, convicted and sentenced him under the said sections as mentioned in paragraph-2 of this judgment leading to the filing of this appeal.

6. Contention of the counsel for the appellant is that the appellant has been falsely implicated in the instant case. That on account of previous enmity between the families, the appellant has been put to trial and on fake and incorrect evidence he has been convicted. Counsel for the appellant doubting the veracity of the witnesses examined during the course of evidence tried to canvass the fact that there are material contradictions in the statements of the witnesses. Moreover, he drew

the attention of this Court to the evidence of PW-1, the maternal grandfather of the prosecutrix who has not supported the case of the prosecution which according to the counsel for the appellant is a strong ground for doubting the case of the prosecution.

7. State counsel, on the contrary, opposing the appeal submits that there are ample evidences brought before the Court below by the prosecution including the statement of the prosecutrix, a minor as also the evidence of two of the eye witnesses i.e. PW-4 and PW-5. Hence, the case of the prosecution has been proved beyond all reasonable doubt and that there is no reason to doubt the evidence of PW-2, PW-4 & PW-5. Thus, the conviction of the appellant does not warrant any interference and the appeal deserves to be rejected.

8. Having heard the contentions put forth on either side and on perusal of the record it would be relevant at this juncture to refer to the evidence of PW-4 Ramesh and PW-5 Ram Singh, the two eye witness who have been examined on behalf of the prosecution. Statements of both these witnesses are almost similar in nature. Both these witnesses have categorically stated that they had gone to the river bank on the said date. When they heard cry of a young girl for help, they reached the spot and found the appellant committing the offence with the prosecutrix. According to PW-4 & PW-5, hands and feet of the prosecutrix were tied and she was completely naked. According to them, they had caught hold of the appellant and had also initially manhandled. Thereafter the appellant was brought to village and later handed over to the Police authorities. This statement of the two witnesses stands fully corroborated by the statement of prosecutrix PW-

2, a 7 years old child. There does not appear to be any conflict, contradiction or omission so far as the version of the prosecutrix with the version of PW-4 & PW-5 is concerned.

9. Moreover, what also cannot be brushed aside is the fact that there is no allegation of any animosity between the family of the appellant and the prosecutrix neither has the appellant brought any evidence before the trial Court or has extracted anything from the cross-examination with which it could be said that the prosecution story is doubtful or that he has been falsely implicated in the instant case.

10. The evidence of the prosecutrix stands further substantiated from the medical evidence of PW-7 Dr. Smt. B. Tigga who in her deposition has categorically stated that when she examined the prosecutrix a few hours after the incident, she found certain injuries in her private part and she has opined that from the nature of injury it appears that the prosecutrix has been subjected to forceful sexual intercourse causing injuries. The aforesaid statement of PW-7 further gets strengthened from the evidence of PW-3, the maternal grandmother of the prosecutrix namely Ram Kumari who was the first person to whom the prosecutrix is said to have disclosed the commission of offence and who herself had found the prosecutrix bleeding when the prosecutrix met her.

11. Given the aforesaid evidence which has come on record and perusal of the other prevailing circumstances, this Court is of the opinion that the finding of the Court below in holding the appellant guilty cannot be said to be either erroneous or contrary to the evidence on record warranting interference with the judgment of conviction.

12. Thus, the appeal being devoid of merit deserves to be and is

accordingly dismissed. This Court renders a word of appreciation to shri Akhil Agrawal, advocate for rendering valuable assistance for disposal of this appeal.

Sd/-
(P. Sam Koshy)
JUDGE

Bhola