

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 760 of 2014**

Loknath Rawat S/o Lachhindar Rawat Aged About 55 Years Profession Agriculturist, Vill. Pipalawand Awash Plot Para Ps. Bhanpuri Rev. And Civil Dist. Bastar, Chhattisgarh.

---- Appellant**Versus**

State Of Chhattisgarh S/o Through Special Police Station-Scheduled Castes And Scheduled Tribes Prevention Of Atrocities Bhanpuri Jagdalpur Dist. Bastar Cg, Chhattisgarh.

---- Respondent

For the Appellant : Shri Praveen Kumar Tulsyan,
Advocate.
For the Respondent/ State: Shri Ashish Shukla, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Judgment on Board****28.11.2018**

1. This appeal has been preferred against the judgment of conviction and order of sentence dated 18.6.2014 passed by the Learned Sessions Judge (Atrocities), Bastar, Jagdalpur, Chhattisgarh in Sessions Trial No. 70 of 2013, whereby and whereunder, the learned Sessions Judge has convicted the appellant with a direction to run all the sentences concurrently, as under:-

CONVICTION	SENTENCE
Under Section 450 of the Indian Penal Code.	RI for 5 years and to pay fine of Rs.1,000/-, with default stipulation.
Under Section 376(1) of the Indian Penal Code.	RI for 7 years and to pay fine of Rs.1,000/-, with default stipulation.

2. Conviction is impugned on the ground that without there being any iota of evidence, the trial Court has convicted and sentenced the appellant as

aforementioned and thereby committed illegality.

3. The facts of the case, in brief, are that on 29.4.2013 at about 12:00 am in the night, finding the prosecutrix alone in her house, the appellant committed lurking house trespass and then by putting the prosecutrix (PW-1) under threat committed the offence of rape with her. The prosecutrix informed about this incident to her mother on 30.4.2013, when she came back and a meeting was called in her village, but the appellant was not present in that meeting. Subsequent to which, a written complaint was given in P.S. Bhanpuri on 6.5.2013 and on the basis of which, FIR Ex. P/2 was lodged. Statements of the witnesses were recorded under Section 161 of the Code of Criminal Procedure, 1973 (for short 'the Code'). After completion of investigation, the charge-sheet was filed before the concerned Court.

4. During trial, the Court below framed the charges against the appellant under Sections 450, 376 and 506B of the Indian Penal Code and Section 3(1)(12) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The prosecution examined 14 witnesses to prove the guilt of the appellant. No witness was examined in defence. Statement of the appellant was recorded under Section 313 of the Cr.P.C. wherein the appellant denied the circumstances appearing against him and pleaded innocence and false implication in the crime in question. The appellant was acquitted for the offences under Section 506B of the IPC and Section 3(1)(12) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

5. After affording opportunity of hearing to both the parties, learned trial Judge convicted and sentenced the appellants as aforementioned.

6. I have heard learned counsel for the parties, perused the judgment impugned and records of the Court below.

7. Learned counsel appearing on behalf of the appellant submits that the appellant has been erroneously convicted by the trial Court without there being any reliable and trustworthy evidence and he was entitled for acquittal in this case. It is also submitted that the appellant has completed his jail sentence and has been released from jail on 3.7.2018. Hence, It is prayed that on these grounds the appeal may be allowed and the appellant may be acquitted of the charges framed against him.

8. Per contra, learned counsel for the Respondent/ State opposed the grounds raised in the appeal and submissions. It is submitted that the prosecution has proved its case beyond reasonable doubt and there is no reason to interfere in the impugned judgment. Hence, no case is made out for acquittal of the appellant.

9. In order to appreciate the arguments advanced on behalf of the parties, I have perused the evidence adduced by the prosecution.

10. Prosecutrix (PW-1) given her statement before the Court that on the date and time of incident, the appellant forced his entry into her house at about 12:00 am in the night when she was alone and then by force raped

her. She has stated about giving written complaint vide Ex. P/1 and the lodging of FIR vide Ex.P/2.

11. Smt. Subai (PW-2) is the mother of the prosecutrix. She has stated about the narration given by the prosecutrix on the very next day when this witness came back from outside. Sudar (PW-5) is only hearsay witness who was informed about the incident. Dr. Smt. Manisha Goyal (PW-10) has examined the prosecutrix and given her opinion vide Ex. P/18 that she could not come to a conclusion regarding the offence committed.

12. After closely examining and scrutinizing all the evidence on record of the trial Court, it appears that the statement of the prosecutrix (PW-1) is unrebutted and worthy of reliance. Hence, the conviction of the appellant recorded by the trial Court in the offences aforementioned cannot be said to be erroneous in any manner.

13. After due consideration, I do not find any merit in this appeal, the appeal is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge