

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 515 of 2001

Vinnu @ Vinay Kumar, S/o- Chhabiram, Aged about- 19 years,
Occupation- Agriculture, R/o-Village- Giraud, P.S.- Magarlod,
Tahsil- Kurud, District- Dhamtari **---- Appellant**

Versus

State of Chhattisgarh, Through: District Magistrate, Dhamtari
(C.G.) **---- Respondent**

For Appellant : Mrs. Meenu Banerjee, Advocate

For Respondents : Mr. Ishwar Jaiswal, P.L.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board

20/11/2019

1. This appeal is preferred against judgment dated 11th June 2001, passed by Learned Additional Sessions Judge, Dhamtari (C.G.) in Sessions Trial No. 193/2000 wherein the said Court convicted the appellant for commission of offence under Section 376(2) (F) read with Section 511 of the IPC and sentenced to undergo R.I for 5 years with fine of Rs. 500/- with default stipulations.
2. In the present case, the prosecutrix is PW-7. The entire case of the prosecution is based on evidence of prosecutrix (PW-7) because she is injured witness and there were no eye witness on account to the incident. If evidence of this witness is of sterling quality and dependable then it can be acted upon without any corroboration. The prosecutrix deposed before the Trial Court that appellant committed sexual intercourse with her but when a number of questions were asked to her she kept silent and did not answer to the questions. She admitted that her mother is her tutor for giving evidence (Para-3).

Version of this witness is entirely different what is stated by her before investigating officer in the present case. Investigating officer is Sub Inspector- S.M. Tiwari (PW-10), as per version of this witness he recorded statement of prosecutrix what is stated by her before him. In her earlier statement she said that appellant tried to commit intercourse with her. While she has exaggerated her version before the Trial Court and deposed that sexual intercourse was committed by the appellant. Both versions are contradictory in nature and looking to the conduct of the prosecutrix for not replying the answer to the questions put to her, the evidence of prosecution is not of sterling quality. The evidence which is not dependable and acted upon safely.

3. The other witnesses have deposed what is informed to them after the incident and some of them are witnesses of investigation after registration of FIR and there evidence is insignificant to reach any conclusion. The evidence of Prosecutrix is not dependable, therefore, finding of the Trial Court is not sustainable.
4. Accordingly, the appeal is allowed and conviction of the appellant for offence under Section 376(2)(F) read with Section 511 of IPC is hereby set-aside and he is acquitted of the said charge.

Sd/-

(Ram Prasanna Sharma)
Judge