

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Reserved on 7-3-2019****Pronounced on 8-3-2019****CRIMINAL APPEAL 791/2008**

(Arising out of judgment of conviction and order of sentence dated 26-7-2008 passed by 10th Addl. Sessions Judge (FTC) Raipur (CG) in Sessions trial No. 232/2007)

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Inder Sahare aged about 39 years, son of Siya Ram resident of Village Laxman Nagar, P.S. Gudhiyari, Raipur, Distt. Raipur (CG)

---Appellant**-VERSUS-**

State of Chhattisgarh, through P.S. Gudhiyari Raipur (CG)

---Respondent

For appellant	: Mr. Vijay Sahu, Adv.
For respondent/State	: Mr. S.R.J. Jaiswal, Panel Lawyer.

Hon'ble Shri Sharad Kumar Gupta, Judge**C.A.V. JUDGMENT**

1. In this criminal appeal the challenge is levied to the judgment of conviction and order of sentence dated 26-7-2008 passed by 10th Addl. Sessions Judge (FTC) Raipur (CG) in Sessions trial No. 232/2007 whereby and whereunder he convicted the appellant as under:-

Offence u/S.	RI for	Fine Rs.	RI in default of payment of fine
363, IPC Indian Penal Code (in brevity 'IPC')	5 Years	500/-	3 months
366, IPC	7 Years	1,000/-	6 months
376, IPC	7 Years	1,000/-	6 months

All the jail sentences are directed to run concurrently.

2. In brief the prosecution story is that at the time of alleged incident prosecutrix was 16 years old. She was a resident of Gudhiyari, Raipur. On 2-6-2007 at about 10.15 am appellant took her and committed repeatedly sexual intercourse with her. After completion of investigation, a charge sheet was filed against him. After completion of trial, trial Court convicted and sentenced him as aforesaid.

3. Being aggrieved the appellant has preferred this criminal appeal.

4. Counsel for the appellant argued that Trial Court has not appreciated

the evidence in proper perspective. Thus, the conviction and sentences of the appellant are bad in eyes of law. Hence, appellant may be acquitted of the aforesaid charges.

5. Counsel for the State argued that the conviction and the sentences of the appellant are based on clinching evidence. They do not call for any interference by this Court.

6. P.W. 1 prosecutrix says in para 2 of her statement given on oath on 15-1-2008 that her age is 16 years. Appellant took her to different places by enticing and committed repeatedly sexual intercourse with her.

7. P.W. 2 Anuj Ram who is father of the prosecutrix says in para 1 of his statement given on oath on 15-1-2008 that prosecutrix is 16 years old.

8. P.W. 3 Sitabai who is mother of the prosecutrix says in para 1 of her statement given on oath on 2-2-2008 that age of prosecutrix is 16 years.

9. As per the marksheet Ex. P-7 date of birth of the prosecutrix is 6-7-1991.

10. As per the birth certificate Ex. P-9 date of birth of the prosecutrix is 3-7-1991.

11. As per the Dakhil Kharij Register Ex. P-14-C date of birth of the prosecutrix is 6-7-1991.

12. As per the MLC report Ex. P-17, P.W. 12 Dr. V.R. Bhagat opined that appellant was able to perform sexual intercourse.

13. Looking to the entire evidence available on the record, this Court finds that prosecution has succeeded to prove the charges punishable under Sections 363, 366 and 376(1), IPC against the appellant.

14. Thus, this court finds that trial Court has not committed any illegality in convicting and sentencing the appellant as aforesaid. Hence the same are affirmed. The appeal is accordingly dismissed.

15. As per the report received from the office of Jail Superintendent, Central Jail, Bilaspur, the appellant has been released on 15-12-2012 after getting the benefit of remission extended to him. Thus, no further order is required.

Sd/-
(Sharad Kumar Gupta)
Judge