

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 535 of 2009

Order reserved on 01.04.2019

Order pronounced on 19.12.2019

Ramkesh Sahu, S/o Shri Ramratan Sahu, aged about 27 years,
Occupation – Labour, R/o Aanjokala, PS Patna, District Korea (CG)

--- Appellant

Versus

State of Chhattisgarh, through Police Station Patna, District Korea
(CG)

--- Respondent

For Appellant : Mr. D.N. Prajapati, Mr. Bishnu Muni,
Advocates

For State/Respondent : Mr. Himanshu Sharma, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

C.A.V. Order

Written report (Ex.P-1) on the basis of which FIR (Ex.P-11) was registered against the accused/appellant shows that on 12.07.2007 after receiving an information regarding the illness of her mother at her maternal uncle's home when she was going to see her, on the way accused/appellant met her and on being asked by him she boarded his scooter as he too was going to the same village known as Morga. The accused/appellant however took her to a house, asked her to wait outside and got back with one person who took their photographs. Thereafter, the accused/appellant is said to have taken her to an advocate for entering in marriage with her and when she showed her dissent for the same, the accused/appellant got angry and dealt a slap on her face. On the basis of this report, offences under Sections 366 and 323 IPC were registered against the accused/appellant and after completion of investigation *challan* was filed followed by framing of charge accordingly.

2. Learned Court below by the judgment impugned dated 09.07.2009 passed in Sessions Trial No.30/2008 convicted the accused/appellant under Sections 366 and 323 IPC and sentenced him to undergo RI for two

years with fine of Rs.500 under Section 366 and RI for 3 months under Section 323 IPC, plus clauses.

3. After hearing counsel for the parties and taking into consideration the evidence of the witnesses in particular that of the complainant (PW-2), this Court is of the considered opinion that the accused/appellant abducted the complainant (PW-2) with an intention of forcing her to enter into a marriage with him, and for that he got the combined photograph snapped without her knowledge. On being asked by PW-2 as to why her photograph was taken with him, the accused/appellant misled her saying that it was solely of himself and not that of her. Likewise, when she declined for entering in marriage in front of the advocate, the accused lost his temper and slapped her for that. Statement of the complainant has also been supported by that of her parents PW-1 and PW-12. Since the medical examination of the complainant was done 15 days after the incident, the doctor (PW-10) did not find any injury on her body yet he has stated that she was complaining pain on her face vide report Ex.P-10. Investigating Officer has also supported the case of the prosecution.

4. Thus the evidence clearly proves that the accused/appellant abducted the complainant with an intention to force her to enter in marriage with him against her wishes and when she did not succumb to his trap, he even affixed a slap on her cheek. Thus his conviction under Sections 366 and 363 IPC cannot be said to be at fault and being so it is hereby maintained.

5. As regards sentence, keeping in mind the incident being of 2007 has already led to efflux of almost 12 years and that he is in the middle of his life and that has already remained in jail for about a week, this Court thinks it in the interest of justice to reduce the jail sentence imposed on him to the period already undergone. However, the sentence of fine is enhanced to Rs.3000 from that of Rs.500 to be deposited in the trial Court

within a period of 3 months from today or else he would not have the benefit of this order. Order accordingly.

6. Appeal thus allowed in part.

Sd/-
(Vimla Singh Kapoor)
Judge