

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 354 of 2009****Reserved on : 15.03.2019****Delivered on : 11.04.2019**

Jai Singh, S/o Dharam Sai Pando, aged about 22 years, R/o Village-
Jamdi Kuppi, P.S.- Odgi, District- Surguja (C.G.)

---- Appellant**Versus**

State of Chhattisgarh, Through: Station House Officer, Odgi, District-
Surguja (C.G.)

---- Respondent

For Appellant : Mrs. Savita Tiwari, Advocate.

For State/respondent : Mr. A.N. Bhakta, Dy. A.G.

Hon'ble Shri Justice Ram Prasanna Sharma**CAV JUDGMENT**

1. This appeal is preferred under Section 374 (2) of the Code of Criminal Procedure, 1973 against judgment dated 11.11.2008 passed by First Additional Sessions Judge, Surajpur, District- Surguja (C.G.) in Session Trial No. 170/2008, wherein the said court convicted the appellant for commission of offence under Sections 376 (1) & 323 of IPC, 1860 and sentenced to undergo R.I. for 7 years and fine of Rs. 200/- and R.I. for 6 months respectively with further default stipulations.
2. In the present case, prosecutrix is PW-1. As per version of the prosecution, on 11.03.2008 at about 7:00 a.m. in Village- Kuppi Jamdipara, the prosecutrix was returning after leaving cattles into forest, at the same time, the appellant dragged her, made her lie down on surface and committed sexual

intercourse with her without her consent and against her will and again, assaulted him by a bamboo stick. The matter was reported, the appellant was charge-sheeted and after completion of trial, the trial court convicted as mentioned above.

3. Learned counsel for the appellant submits as under:-

(i) The trial court ought to have considered the fact that the prosecutrix is major married lady and she would be consenting party.

(ii) The trial court has overlooked major contradiction and omission in statement of the prosecution witnesses.

(iii) There is dispute between the parties regarding some land that is why the appellant has been falsely roped in false charge, therefore, the finding arrived at by the trial court is liable to be set aside.

4. On the other hand, learned State counsel submits that the finding arrived at by the trial court is based on relevant material placed on record and the same does not warrant any interference of this Court with invoking jurisdiction of the appeal.

5. The prosecutrix (PW-1) deposed before the trial court that she was returning after leaving cattles for grazing in forest and at the same time, the appellant assaulted her and committed sexual intercourse within her after removing her garments and removing garments of himself. Version of this witness is

supported by version of Pannalal (PW-2) who is husband of the prosecutrix and Sonbasiya Bai (PW-3) who is mother-in-law of the prosecutrix. These witnesses have been subjected to searching cross-examination, but nothing could be elicited in favour of the defence.

6. Version of the prosecutrix is further supported by version of Dr. S.N. Kujur (PW-4) who examined the appellant and found him capable of intercourse. It is also supported by version of Dr. Rashmi Kumar (PW-7) who examined the prosecutrix and found that forcibly intercourse has been committed against her.
7. The statement of the prosecutrix is quite natural, inspires confidence and merit acceptance. In the traditional non-permissive bounds of society of India, no girl or woman of self respect and dignity would depose falsely implicating somebody of ravishing her chastity by sacrificing and jeopardizing her future prospect. Evidence of the prosecutrix to be followed at par with an injured witness and when her evidence is inspiring confidence, no corroboration is necessary.
8. In the present case, date of incident is 11.03.2008 and report was lodged on next day i.e. on 12.03.2008 at Police Station- Odgi in which name of the appellant is mentioned as culprit and his act of rape and assault are also mentioned in the said report. The place of incident is Village- Kuppi Jamdipara which

is at distance of 25 Km. from Police Station- Odgi, therefore, it cannot be said that there is delay in lodging the FIR.

9. Where report of rape is to be lodged many questions would obviously crop up for consideration before one finally decides to lodge the FIR. It is difficult to appreciate the plight of victim who has been criminally assaulted in such a manner. Obviously prosecutrix must have also gone through great turmoil and only after giving it a serious thought, must have decided to lodge the FIR. There are several factors which weigh in the mind of the prosecutrix and her family members before coming to the police station to lodge complaint. In a tradition bound society prevalent in India, more particularly, rural areas, it would be quite unsafe to throw out the prosecution case merely on the ground that there is some delay in lodging the FIR.
10. There is nothing on record to show that any land dispute is pending before the parties. There is no material contradiction and omission in the statement of the prosecution and other witnesses. There is no reason to say that the appellant has been roped with false charge. There is also no reason to disbelieve version of the prosecution witnesses, therefore, argument advanced on behalf of the appellant is not sustainable.
11. The trial court has elaborately discussed the entire evidence and recorded finding of conviction. After reassessing the entire evidence, this Court has no reason to record contrary

finding. Commission of rape is offence punishable under Section 376 (1) of IPC and causing voluntarily simple injury is offence punishable under Section 323 of IPC for which the trial court convicted the appellant and the same is not liable to be interfered with and conviction of the appellant is hereby affirmed.

Heard on the point of sentence

12. The trial court awarded jail sentence of 7 years for commission of offence under Section 376 (1) of IPC which is minimum prescribed sentence and less than minimum cannot be awarded. Sentence part is also not liable to be interfered with. Accordingly, the appeal is liable to be and is hereby dismissed.
13. The appellant is reported to be on bail and his bail bonds are cancelled. The trial court will prepare super-session warrant and issue warrant of arrest against the appellant and after his arrest, he be sent back to the concerned jail for serving out the remaining part of the jail sentence. The trial court shall submit compliance report on or before 25th July, 2019.

Sd/-
(Ram Prasanna Sharma)
Judge