

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

Judgment reserved on 25-01-2019  
Judgment delivered on 07-02-2019

**CRA No. 402 of 2011**

- Shobhit Ram s/o. Shri Punarad Satnami aged about 28 years, r/o. Village Singarbhatta, PS Abhanpur, District Raipur (CG).

---- Appellant

**Versus**

- State of Chhattisgarh through PS Abhanpur, District Raipur (CG).

---- Respondent

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For Appellant : Mr. Bharat Rajput, Advocate.

For respondent/State : Mr. Ravish Verma, Govt. Adv.  
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**Hon'ble Shri Justice Ram Prasanna Sharma****CAV Judgment**

1. This appeal is preferred against the judgment of conviction and order of sentence dated 4-4-2011 passed by Vth Additional Sessions Judge, Raipur, District Raipur in Sessions Trial No. 178 of 2010 wherein the said Court has convicted the appellant for commission of offence under Section 376 (1) of the IPC and sentenced him to undergo rigorous imprisonment for seven years and to pay fine of Rs.1,000/- with default stipulations.

2. In the present case, prosecutrix is PW/3. As per prosecution case, on 7-3-2010 left her house at about 8.00 a.m in the morning for collecting cow dung towards Mandkhar and after some time the appellant found her alone with ill-intention of molesting her threw her down and committed forcible intercourse with her. On hearing the hues and cries of the prosecutrix, Radha Bai and Gunja Bai who were harvesting the mustard crop came to rescue her and on seeing them, the appellant fled away from the spot. The incident was informed to her family members. The matter was reported and investigated. After completion of trial, the trial Court convicted and sentenced him as aforementioned.

3. Learned counsel for the appellant would submit as under:

- i) The trial Court has ignored the exaggerations and omissions in the evidence of Radha Bai (PW/5) and Gunja Bai (PW/6). Again the trial court failed to appreciate the medical evidence while appreciating the evidence of prosecutrix.
- ii As the medical evidence is of no different character regarding opinion, therefore, finding of the trial Court is not sustainable.

l ii) It appears from the evidence that the prosecutrix was a consenting party, therefore, finding of the trial Court is suffered from factual and legal infirmity and same is liable to be reversed.

4. On the other hand, learned counsel for the State supporting the impugned judgment would submit that the finding of the trial Court is based on proper marshalling of the evidence and the same is not liable to be interfered while invoking the jurisdiction of the appeal.

5. I have heard learned counsel for the parties and perused record of the court below in which impugned judgment is passed.

6. In the present case, date of incident is 7-3-2010 and report was lodged on the same day as per Ex.P/2 at Police Station Abhanpur in which name of the appellant is mentioned as culprit and his act of commission of rape is also mentioned in the said report. PW/3 prosecutrix deposed before the trial Court that she was collecting cow dung from the place and at the same time, the appellant caught her, threw her on the ground and committed rape on her after pressing her mouth. When he left her mouth, she cried for

help and thereafter, the appellant fled away from the spot. Version of this witness is supported by version of Radha Bai (PW/5) and Gunja Bai (PW/6) who have supported the version of prosecution. All the witnesses have been subjected to searching cross examination but remained unshaken. Version of this witness is also supported by FIR and again it is supported by version of Dr. G.P. Verma (PW/1) who examined the appellant and found him capable of intercourse. There is no material contradictions in the statement of the prosecutrix and other witnesses.

7. The statement of the prosecutrix is quite natural, inspires confidence and merits 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, there is no delay in lodging the report. 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. Precisely this appears to be the reasons for little delayed FIR. The delay in a case of sexual assault, cannot be equated with the case involving other offences. There are several factors which weigh in the mind of the prosecutrix and her family members before coming to the Police Station to lodge a 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.

9. The trial Court has elaborately discussed the entire evidence and recorded finding that the appellant is the actual author of crime of rape. Looking to the evidence, it is established that rape was committed on prosecutrix which is punishable under Section 376 (1) of the IPC.

10. After assessing the evidence, this court has no reason to say that the appellant has been falsely implicated. There is no reason to disbelieve the evidence of prosecutrix and other witnesses and this court has no reason to substitute a contrary finding. Rape is punishable under Section 376 (1) of IPC for which the trial Court has convicted the appellant and same is hereby affirmed.

11. Heard on the point of sentence.

The trial Court awarded RI for seven years for offence of rape under Section 376 (1) of IPC which cannot be termed as harsh or unreasonable or disproportionate. Sentence part is also not liable to be interfered with.

12. Accordingly, the appeal being devoid of merits is liable to be and is hereby dismissed. As the appellant is reported to be in jail, therefore, no further order for his arrest etc., is required.

Sd/-

**(Ram Prasanna Sharma)**

**Judge**

Raju