

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Appeal No. 220 of 2011**

Sneh Kumar S/o Pyarelal Parghania, aged about 20 years R/o Village Bhendra,  
P.S. Gharghoda, District Raigarh (C.G.)

----Appellant

**Versus**

State of Chhattisgarh through District Magistrate Raigarh, District Raigarh  
(C.G.).

---- Respondent

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| For Appellant  | : | Mr. Abhishek Saraf, Advocate |
| For Respondent | : | Mr. Amit Singh, PL           |

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**Hon'ble Shri Justice Arvind Singh Chandel**

**Judgment on Board**

**01/08/2019**

1. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 11/02/2011 passed in Sessions Trial No. 78/2010 by the Third Additional Sessions Judge (FTC), Raigarh (C.G.) convicting the Appellant under Section 366 of the Indian Penal Code and sentenced him to undergo RI for 5 years and to pay fine of Rs. 500/- with default stipulation.
2. In this case the age of the Prosecutrix (PW7) was below 18 years at the relevant time. As per prosecution story, that on 24/04/2010 Complainant Kalawati (PW2), mother of the Prosecutrix lodged a missing report of her daughter at police station Gharghoda. During course of investigation, the Prosecutrix was recovered and her statement was recorded under Section 161 of the Cr.P.C. On the basis of her statement, other offence have been added. After further investigation, a charge-sheet under

Sections 366 and 376 of the IPC has been filed. The Trial Court framed the charges. As many as 12 prosecution witnesses have been examined. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C was recorded, wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has acquitted the Appellant from the charge framed under Section 376 of the IPC and convicted and sentenced him as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submits that he does not want to press this appeal on merits and confines his argument to the sentence part only. He further submits that the trial Court has acquitted the Appellant from the charge framed under Section 376 of the IPC as the age of the Prosecutrix was above 16 years at the relevant time and she was the consenting party. It is further submitted that both the Prosecutrix and the Appellant had performed marriage and presently they are having children. He further submits that the Appellant was in custody for about 3 months during trial and was in custody for about 2 & ½ months after the judgment of the Appellate Court, therefore, he prays that the sentence awarded to the Appellant may be undergone.
5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely.

7. Considering the above facts and circumstances, particularly that out of total jail sentence of 5 years, the Appellant has undergone about 5 & 1/2 months total, Both the Prosecutrix and the Appellant have performed marriage, they are having children and there is no criminal antecedent of the Appellant, I am of the view that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the jail sentence awarded to him is reduced to the period already undergone by him
8. Consequently, the appeal is partly allowed. The conviction imposed upon the Appellant under the aforementioned Section is upheld, however, the jail sentence awarded to him is reduced to the period already undergone by him.
9. It is reported that the Appellant is on bail. His bail bond is not discharged at this stage and the same shall remain operative for a further period of 6 months in light of Section 437-A of the Cr.P.C.
10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

**Sd/-**  
**(Arvind Singh Chandel)**  
**Judge**