

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRA No. 273 of 2011**

Yogesh Kumar S/o Govind Prasad Pandey, aged about 22 years, present age 23 years R/o Nagpura, In front of Gramin Bank, Police Station Pulgaon, District Durg, Chhattisgarh.

---- Appellant

**Versus**

State of Chhattisgarh Through Police Station Balod, District Durg (C.G.)

---- Respondent

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|----------------|---|-----------------------|
| For Appellant  | : | None.                 |
| For Respondent | : | Ms. Shriya Mishra, PL |

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Hon'ble Shri Justice Arvind Singh Chandel

**Judgment on Board**

**22/07/2019**

1. By the impugned judgment dated 30/03/2010 passed in Sessions Case No. 09/2009 by the Additional Sessions Judge (FTC), Balod, the Appellant has been convicted under Sections 363, 366 & 376 (1) of the IPC and sentenced him to undergo rigorous imprisonment for 7 years with fine of Rs. 500/-, RI for 10 years with fine of Rs. 500/- and RI for 10 years with fine of Rs. 5000/-, respectively, with default stipulation.
2. Facts of the case are that on 03/12/2008, the Appellant had taken the Prosecutrix from her School by saying that her grand-mother is ill. He took the Prosecutrix to village Vasanvahi on his motorcycle. Both stayed there at night and in morning the Appellant took the Prosecutrix to Khairagarh. It is alleged that the Appellant proposed the Prosecutrix

to marry her but she denied. Thereafter, the Appellant again proposed her and wore a Magal Sutra to her and committed forcible sexual intercourse with her. In the meantime, father of the Prosecutrix and grant-mother lodged a missing report. Later on, the Appellant left the Prosecutrix to her grant-mother's house. Statement of the Prosecutrix was recorded. On the basis of her statement, other offences have been added. After completion of the investigation, a charge-sheet was filed and charges were framed.

3. After trial, the trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Durg would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released 13/10/2016.
5. Since no one appears for the Appellant today, I decide this appeal on merits.
6. I have heard Learned Counsel appearing for the State and perused the record to assess the correctness of the impugned judgment of conviction.
7. In this case, the Prosecutrix (PW10) in her statement recorded before the trial Court has categorically stated that on 03/12/2008, the Appellant came to her school and told her that her grant mother is ill. He had taken her at village Borai. Thereafter, both went to village Khairagarh. The Appellant kept her with him for about one week there and wore Mangal Sutra to her. He committed forcible sexual

intercourse with her. Till they stayed there, the Appellant committed sexual intercourse with her for about 7 days. Thereafter, the Appellant left her to her grand-mother's house. Thereafter, the Prosecutrix stated the incident to her grand-mother. This witness remained firm during her cross-examination. Her above statement is duly corroborated by Vimla Mishra (PW6), Kishore Dubey (PW7) and Praveen Kumar Mishra (PW8). From the statements of the Prosecutrix and other witnesses, it is clear that at the time of incident, the age of the Prosecutrix was aged about 13 years. It is also clear that the Appellant had committed forcible sexual intercourse with the Prosecutrix. Therefore, the finding of the trial Court is based on the evidence available on record and the trial Court has rightly convicted the Appellant.

8. Consequently, I do not find any merit in this appeal. The same is dismissed.

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