

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 92 of 1999

Judgment reserved on 17.10.2019

Judgment delivered on 07.11.2019

1. Bachau Ram S/o. Biran Ram, Aged 55 years, Occupation Agriculture. (Dead)
2. Amritlal @ Guddu S/o. Bachau Ram, Aged about 30 years, Occupation Agriculture.

Both resident of village Kamaleshwarpur, P.S. Kamleshwarpur, District Sarguja (M.P.) (now Chhattisgarh)

---- **Appellants**

Versus

State of Madhya Pradesh through Police Station Kamleshwarpur District Sarguja (M.P.) (now Chhattisgarh)

---- **Respondent**

For Appellants : Mr. Nishikant Sinha, Advocate.

For Respondent : Ms. Shriya Mishra, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Judgement

On the basis of the allegations made by the prosecutrix regarding her being taken away to several places by the accused/appellant Amritlal herein for compelling her to marry, and being forced by others to enter into marriage with him, offences under Sections 363, 366, 109, 34 IPC were registered against him and others vide FIR Ex.P-4. After completion of investigation the charge-sheet was filed under the same sections but learned Court

below framed the charge against the accused/appellant herein and others (acquitted subsequently by the judgment impugned) under Section 363, 366 and 109 IPC.

2. After examining the evidence on record learned Court below did not find any case being made out against the other accused persons and as such acquitted them of all the charges levelled against them. Even the accused/appellants herein have been acquitted of the charge under Section 363 but have been convicted under Section 366 IPC and sentenced to undergo RI for 7 years vide judgment impugned dated 31.12.1998 passed in Sessions Trial No.288/1994. It is relevant to mention here that accused/appellant Bachauram died during the pendency of appeal and vide order dated 17.10.2019 the appeal against him stood abated.

3. Counsel for the accused/appellant submits that the accused/appellant has not committed any offence but has been implicated in a false case. He submits that the prosecutrix accompanied the accused/appellant of her own without any fear or pressure either by him or any of the accused. He also holds the judgment impugned to be contrary to the evidence of the witnesses regarding her being taken away on the pretext of marriage. According to him, the prosecutrix herself has stated in her evidence that the accused/appellant took her to several places in a truck but she did not make any disclosure to any of the inmates about the act of the accused/appellant which shows that she was a consenting party to his act.

4. State counsel however supports the judgment impugned and submits that the act of the accused/appellant in forcing the prosecutrix for marriage is evident from the statement of the prosecutrix and that of her father who have categorically stated that the accused/appellant took her away, kept her in confinement and made her accompany him to several places for persuading her to marry him against her will and, therefore, the findings recorded by the Court below are fully in accordance with law.

5. Evidence of the prosecutrix (PW-1) and her father (PW-6) is eloquent enough to indicate that on 08.04.1994 the prosecutrix was taken away by the accused/appellant herein, confined in his house and was compelled for entering in marriage with him. In view of the statement of the prosecutrix that on account of fear and pressure from the accused/appellant not to open her mouth, she did not make any disclosure even during her visitation to several places in a truck, the defence taken by the accused/appellant that she was a consenting party has no merits and it is hereby struck down accordingly. The evidence also discloses that after being taken away to several places such as Dumdoda, Sitapur, Ambikapur and Manpaat she was ultimately recovered from Manpaat two days after the incident i.e. on 10.04.1994. Even the ossification report opines the prosecutrix to be in between 14 and 16 on the date of incident and for that her being succumbed to the pressure exerted by the accused/appellant cannot be said to be unnatural. Prosecutrix (PW-1) and her father (PW-6) have been consistent in putting forth their version regarding the agony undergone by the prosecutrix. No exaggerations in the evidence of the either one is visible in their

statements which could create any doubt in the case of the prosecution. Even the defence has not been in a position to rebut the evidence adduced by the prosecution by leading any cogent and clinching material, and therefore, this Court has no hesitation to say that on the date of incident the accused/appellant took the prosecutrix, made her captive, took her to several places and thus forced her to enter into marriage with him against her will and thus committed the offence under Section 366 IPC. The judgment impugned being in conformity with the evidence of the witnesses in particular PW-1 and PW-6, no interference therewith is warranted.

6. Appeal being without any substance is liable to be and is hereby dismissed. Appellant who is on bail, is directed to be arrested and sent to jail for undergoing remaining part of the sentence imposed on him.

Sd/-
(Vimla Singh Kapoor)
JUDGE