

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 14-10-2019

Delivered on 20 -11-2019

CRA No. 3196 of 1999

- Shantinandan s/o. Louis Minj, aged about 30 years, r/o. Village Chhota Jackaba (Muttu Jackaba), Police Station Jashpurnagar, District Jashpur (MP) Now CG.

---- Appellant

Versus

- State of Madhya Pradesh (Now State of CG) through Police Station Jashpur, District Jashpur, CG.

---- Respondent

For Appellant : Mr. Utkal Pradhan, Advocate

For respondent/State : Mr. Raghavendra Verma, G.A.

Hon'ble Shri Justice Ram Prasanna Sharma

CAV JUDGMENT

1. This appeal is preferred against the judgment dated 29-10-1999 passed by the Additional Sessions Judge, Jashpurnagar (CG) in Session Trial No. 111 of 1999 wherein the said Court has convicted the appellant for the commission of offence under Section 366 of IPC and sentenced him to undergo RI for two years and fine of Rs.200/- with default stipulations.

2. The case of the prosecution, in brief, is that on the date of incident i.e., 10-1-1999 at about 7.00 a.m., when the prosecutrix (PW/1) went to ease herself to the forest, at the same time the appellant caught hold her and took her to forest and kept her till evening. The incident was seen by one Leelima Minj (PW/4).

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

- i) The appellant has not abducted the prosecutrix, appellant and prosecutrix were in love and once there was proposal of marriage and the court below has not given proper weightage to the love letters written by the prosecutrix.
- ii There is material contradictions and omissions in the statements of the prosecution witnesses which is overlooked by the trial court, therefore, finding of the trial court is not sustainable.
- iii) PW/4 Leelima Minj, who is said to be eye-witness to the incident, has not supported the prosecution case.
- iv) The trial court has not evaluated the entire evidence in its true perspective and same is liable to be set aside.

4. On the other hand, learned counsel for the respondent would submit that the finding of the trial Court is based on proper marshaling 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, prosecutrix is PW/1. As per version of this witness, appellant had taken her to forest area on 10-1-1999 when she went to ease herself at village Jackaba, but in her cross examination she admitted that she was in love with the appellant and he used to write love letters to her. She further admitted that she has replied to the letters written by the appellant. She admitted that she had written letters Ex.D/1, D/3 to D/8 to the present appellant. She further admitted that she had gone to Bhilai to meet the appellant twice. Again she had photo session with the appellant. She further admitted that on the date of incident appellant asked her when both are maintaining love relation that why prosecutrix is marrying with some other person.

7. The question for consideration of this court is whether the appellant had forced or compelled the prosecutrix to marry with him or she has been seduced to illicit intercourse which is ingredient for offence under Section 366 of the IPC.

8. Admittedly, prosecutrix and appellant had long love relation and they met with each other number of times prior to the incident. On the date of incident also he only asked the prosecutrix why she was marrying with some other person. It is not a case that the appellant abducted prosecutrix who was aged about 28 years at the time of incident with intent that she may be compelled to marry him or she may be forced or seduced to illicit intercourse. Looking to the entire evidence it is difficult to hold that it is a case of abduction for inducing the prosecutrix to compel her for marriage or illicit intercourse. The trial court has not evaluated the evidence of prosecutrix in its true perspective, therefore, finding of the trial court is not liable to be sustained.

9. Accordingly the appeal is allowed. Conviction and sentence passed by the trial court against the appellant for offence under Section 366 of the IPC is hereby set aside. He is acquitted of the charge under Section 366 of the IPC. He is reported to be on bail. His bail bonds shall continue for further period of six months in view of Section 437-A of Cr.P.C.

Sd/-

(Ram Prasanna Sharma)

Judge

Raju