

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 166 of 2002**

Devsharan Uraon S/o Godhi Uraon, aged about 45 years, Caste Uraon, Occupation Agriculturist R/o Village Bhanoura, P.S. Balrampur, Distt. Surguja (C.G.).

----Appellant**Versus**

State of Chhattisgarh

---- Respondent

For Appellant	:	Mr. Samir Singh, Advocate
For Respondent	:	Mr. Anand Verma, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel**Judgment on Board****25/11/2019**

1. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 31/01/2002 passed in Sessions Trial No. 358/1999 by the Sessions Judge, Ambikapur whereby the Appellant has been convicted under Section 376 of the IPC and sentenced to undergo RI for 7 years.
2. Facts of the case are that the Prosecutrix (PW4) is a married lady aged about 35 years. On 10/10/1999, she lodged an FIR alleging therein that on 09/10/1999 at about 10:00 am, she went for grassing cattle in forest. Her husband Sadhua (PW7) had also gone to forest for collecting wood. It is alleged that the Appellant came to the forest and caught hold the Prosecutrix and committed forcible sexual intercourse with her. When she raised alarm, her husband came there and the Appellant fled away from the spot. On the basis of the said report, offence has been registered. The Prosecutrix was medically examined by Dr. Smt. Shipra

Shrivastava (PW12). Her report is Ex.P-8. Statement of witnesses has been recorded under Section 161 of the Cr.P.C. After completion of investigation, a charge-sheet was filed. Trial Court framed the charges under Section 376 of the IPC. 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 convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submits that the Appellant has been wrongly convicted by the trial Court without there being any reliable evidence available on record. It is further submitted that from the statement of the Prosecutrix and her husband Sadhua (PW7), it is established that the Prosecutrix was the consenting party in the alleged act. Sadhua (PW7) had seen both of them in compromising position, therefore, to secure herself, the Prosecutrix has falsely implicated the Appellant. It is further submitted that there was political dispute with Sarpanch of the village, therefore, on the saying of Sarpanch, the Appellant has been falsely implicated.
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. The case of the prosecution is mainly based on the statement of

Prosecutrix (PW4) and her husband Sadhua (PW7). In her Court statement, the Prosecutrix (PW4) deposed that on the date of incident at about 10:00 am, she had gone to forest along with her husband. Her husband had gone for taking wood somewhere and she was grazing cattle. At that time, the Appellant came there and committed forcible sexual intercourse with her. When she made alarm then her husband came there. Seeing her husband, the Appellant fled away. She further deposed that after the incident, she felt ill, therefore, she made report on the next day vide Ex.P-4. In her cross-examination, she deposed that the Appellant was approaching her then she made alarm and listening her alarm, her husband came there. Sadhua (PW7) has supported the statement of the Prosecutrix and stated that listening the voice of the Prosecutrix, he went to the spot, where the Appellant was committing forcible sexual intercourse with the Prosecutrix. Seeing him, the Appellant fled away from the spot. During cross-examination of this witness, suggestions were also made that listening the alarm he had reached to the spot, which was admitted by him. In her cross-examination, the Prosecutrix stated that there was no enmity between her and her husband from the Appellant. She further stated that in the village meeting the Appellant had admitted his fault. The above statement of the Prosecutrix was not rebutted by the defence.

8. On minute examination of above evidence, it makes clear that the Prosecutrix has categorically stated that at the time of incident, when she was alone, the Appellant came there and committed forcible sexual intercourse with her. As stated by this witness on being made alarm, her husband came there and the Appellant fled away from there. This

witness has remained firm during her cross-examination. Her husband (PW-7) has duly corroborated her statement. He also categorically stated that on listening alarm of the Prosecutrix, he reached to the spot, where the Appellant was committing intercourse with the Prosecutrix and seeing him, the Appellant fled away from the spot. From the evidence it is also clear that on the next day of the incident, FIR Ex.P-4 has been lodged. Though there is delay of one day, it has been duly explained by the Prosecutrix and her husband. From the statement of the Prosecutrix, it is also established that in village meeting also, the Appellant admitted his guilt.

9. Looking to the above evidence available on record, in my considered opinion, the trial Court has rightly convicted the Appellant and the conviction of the Appellant does not require interference.
10. Consequently, the Appeal is dismissed.
11. 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