

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 929 of 2007

Ramesh Nat, s/o- Badami Lal Nat, Aged about- 25 years, R/o- village Dhimri Chowki- Panchgaon, P.S. Sadar, Dhaulpur, Distt- Dhaulpur, Rajasthan. Presently residing at Damaru, Amar Khura, Khairi dol, P.S. Dabra, District- Gwalior (M.P.) **---- Appellant**

Versus

The State of Chhattisgarh, Through- Police Station Gudhiyari, District- Raipur (C.G.) **---- Respondent**

For Appellant : Mr. Barun Kumar Chakrabarty, Advocate
For State/Respondent : Mr. Aman Kesharwani, P.L.

Hon'ble Shri Justice Ram Prasanna Sharma

Judgment On Board

21/10/2019

1. This appeal is preferred under Section 374 of the Code of Criminal Procedure, 1973 against judgment/order dated 22nd, September, 2007, passed by 14th Additional Sessions Judge (F.T.C.), Raipur (C.G.), in Sessions Trial No. 18/2007 wherein the said Court convicted the appellant for offence under Sections 368 and 376 of the Indian Penal Code, 1860 and sentenced to undergo R.I. for 7 years with fine of Rs. 500/-, R.I. for 10 years with fine of Rs. 500/- with default stipulations.
2. In the present case, the prosecutrix is PW-7, as per version of this witness, the co-accused Tahiruhnisha allured her for providing cloth and food and thereafter she taken her to the State of Rajasthan, where the appellant received the prosecutrix and confined her knowing that she has been abducted and thereafter committed rape on her. Version of this

witness is not rebutted during the cross examination and it is further supported by version of Kishan (PW-3), Chanda Bai (PW-5), Radhika (PW-6) and Police Inspector S.R. Kshari (PW-10). From the evidence of all these witnesses it is clearly established that prosecutrix and Radhika (PW-6) were confined by the appellant, who was brought there by Tahirunisha. Tahirunisha is not gaurdian of this prosecutrix, therefore, it can be inferred that she kidnapped them and appellant knowing that they have been kidnapped and confined them. From the evidence of prosecutrix it is clear that he committed rape without her consent and against her will.

3. Learned counsel on behalf of appellant submits that there is no eye witness on account to the incident. Looking to the omission and contradiction case against the appellant is not made out.
4. In the present case, the offence committed by the appellant is a offence, which is committed in secrecy, therefore, eye witnesses have clearly not available for the said offence. Again, minor contradiction which did not go to the root of the case are insignificant. There is nothing on record to say as to why the prosecutrix deposed against the present appellant for commission of the offence, as mentioned above. Therefore, argument advanced on behalf of the appellant is unsatisfactory and conviction of the appellant under Section 368 and 376 of IPC is hereby affirmed.

5. As per the Jail report, appellant has served full jail term, therefore, no further arrest is required.
6. Accordingly, the instant appeal is liable to be and is hereby dismissed.

Sd/-
(Ram Prasanna Sharma)
Judge

N.Mohle