

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No.929 of 2003**

Siya Ram, S/o. Shri Kishun Ghasia, Age 19 years, R/o.
Village Bhilai, Post Office Arang, Distt. Raipur (CG)

---- Appellant

Versus

State of Chhattisgarh, Through Police Station Aarang,
District Raipur

---- Respondent

For the appellant : Shri Manoj Mishra, Advocate
For the Respondent/State: Shri Raghavendra Verma, Govt.
Advocate

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment on Board****23.10.2019**

1. Shri Ramakant Mishra and Shri Sachin Singh Rajput, Advocates have been engaged by the appellant, but despite repeated calls, none appeared, therefore, Shri Manoj Mishra, Advocate present in the Court is appointed as Amicus Curiae to argue the matter on behalf of the appellant.

2. The appeal is preferred against judgment dated 24.6.2003 passed by Sessions Judge, Raipur (CG) in Session Trial No.16/2003 wherein the said Court convicted the appellant for the commission of offence under Section 376(1) of the Indian Penal Code and sentenced him to undergo rigorous imprisonment for eight years and to pay fine of Rs.200/-, with default stipulations.

3. In the present case prosecutrix is PW-3. As per the version of the prosecution, on 14.11.2003, at about 11.00 am the

prosecutrix went to take bath in a pond at village Bhilai. She eased herself near the pond and at that time, the appellant came there, pushed her down and removed her petticoat and sari and thereafter committed rape with her. The matter was reported and investigated and the appellant was charge sheeted and convicted as mentioned above.

4. Learned amicus curiae appeared on behalf of the appellant submits as under:-

(i) The trial Court has wrongly appreciated the evidence and the medical report which is not a corroborating evidence of the prosecutrix.

(ii) No injury was found on the body of the prosecutrix, therefore, finding arrived at by the trial Court is not sustainable.

(iii) Story put forth by the prosecutrix is contradictory which shows that a fabricated story is made out to rope the appellant in false charges.

(iv) Evidence of other witnesses is also contradictory in nature but the trial Court has not evaluated the same in its right perspective, therefore, finding of the trial Court is liable to be set aside.

5. On the other hand, learned counsel for the State supporting the impugned judgment 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.

6. I have heard learned counsel for the parties and perused the record.

7. As per the version of the prosecutrix, she went near the pond to ease herself and at that time the appellant reached there, pushed her on the ground, removed her petticoat and sari and thereafter committed forcible sexual intercourse with her. As per the version of this witness, two ladies of the village namely Uma and her sister were coming to the same place and looking to them, the appellant fled away. The incident was narrated to her husband by the prosecutrix and thereafter report was lodged. This witness has been subjected to intensive cross-examination but nothing could be elicited in favour of the defence to rebut the act of the appellant as mentioned by the prosecutrix in her examination in chief. Version of this witness is supported by the version of Rishi Kumar (PW-4) and Maniram (PW-6).

8. On overall assessment, it appears that the statement of the prosecutrix is quite natural, inspire confidence and merits acceptance. In the traditional non-permissive bounds of society of India, no girl or woman of self respect and dignity would depose falsely implicating somebody of ravishing her chastity by sacrificing and jeopardizing her future prospect. Evidence of the prosecutrix to be followed at par with an injured witness and when her evidence is inspiring confidence, no corroboration is necessary.

9. In the present case, the prosecutrix lodged report against the appellant and there is nothing to disbelieve her version which

is supported with FIR. Looking to the entire facts and circumstances of the case, there is nothing to discard the prosecution case on any ground. After assessing the entire evidence, this Court has no reason to record that the appellant has been falsely implicated. There is nothing to disbelieve the evidence of the prosecutrix and other witnesses.

10. Considering the facts and circumstances of the case, charge under Section 376(1) IPC is established for which the trial Court has convicted him and the same is hereby affirmed.

11. Heard on the point of sentence.

The trial Court awarded RI for eight years for the offence under Section 376(1) of the IPC which cannot be termed as harsh, disproportionate and unreasonable. Accordingly, the appeal being devoid of merit is hereby dismissed. As per the report, the appellant has suffered full jail term and thereafter released from jail, therefore, no separate order for his arrest etc. is required.

12. The appeal is dismissed.

**Sd/-
(Ram Prasanna Sharma)
JUDGE**