

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1029 of 2007

Dhaba @ Hitesh S/o Shivtahal Uraon, aged about 18 years R/o Village Kanya
Parisar Road, Padpariya, District Surguja (C.G.)

---- Appellant

Versus

State of Chhattisgarh through Police Station Gandhi Nagar, District Surguja
(C.G.)

---- Respondent

For Appellant	:	Mr. Gajendra Sahu, Advocate
For Respondent	:	Ms. Smita Ghai, PL

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

06/11/2019

1. By the impugned judgment dated 29/09/2007 passed in Special Sessions Case No. 15/2005 by the Special Judge, Schedule Caste/Schedule Tribe (Prevention of Atrocities) Act, Ambikapur (Surguja) (C.G.), the Appellant has been convicted under Sections 366, 363 & 376 of the Indian Penal Code and sentenced to undergo RI for 5 years with fine of Rs. 100/-, RI for 2 years with fine of Rs. 100/- and RI for 10 years with fine of Rs. 100/-, respectively, with default stipulations.
2. Facts of the case are that the age of the Prosecutrix was below 18 years at the relevant time. She was residing with her parents. On 28/08/2004, the Appellant abducted the Prosecutrix. It is alleged that the Appellant along with co-accused persons committed rape with the prosecutrix. They kept her in the house of one Nimbudas. The

Prosecutrix was recovered from there. Her statement was recorded. On the basis of said, offence has been registered. Statement of witnesses under Section 161 of the Cr.P.C were recorded. After completion of investigation, a charge-sheet has been filed against the Appellant as well as acquitted accused Jagnandan Kaleshwar @ Kallu. To prove the guilt of the Appellant, the prosecution has examined as many as 14 witnesses. Statement of the Appellant under Section 313 of the Cr.P.C has been recorded, wherein he has pleaded his innocence and false implication in the matter. No defence witness has been examined.

3. After trial, the trial Court has acquitted co-accused Jagnandan and Kaleshwar @ Kallu, however, the Appellant has been convicted and sentenced as mentioned in paragraph one of this judgment. Hence this appeal.
4. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Raipur would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released 06/02/2013.
5. I have heard Learned Counsel appearing for the parties and perused the record to assess the correctness of the impugned judgment of conviction.
6. In her court statement, the Prosecutrix (PW1) has categorically stated that on the date of incident, the Appellant met her on the way and taken her towards Jungle. At that time, two-three persons also came there. The Appellant as well as other persons committed sexual intercourse with her. Thereafter, the Appellant had taken her to the

house of one Nimbudas. Nimbudas and his wife used to exploit her in prostitution. They kept her for about one month. This witness further deposed that once a dispute arose, due to that the Police came and she was recovered. Thereafter, she lodged FIR (Ex.P-1). This witness has remained firm during her cross examination. Her statement is duly corroborated by her mother Jatradulari (PW2) and father Battu Tirki (PW3). Govind Manvani (PW5) also supported the case of the prosecution and stated that the police recovered the Prosecutrix from the house of one Aasha vide recovery Panchnama Ex.P-5. The Prosecutrix was medically examined by Dr. Smt. S. Shrivastava (PW7). Her report is Ex.P-8. The matter was investigated by Sub Inspector Lata Chore (PW11).

7. On minute examination of above evidence, it makes clear that at the relevant time, the age of the Prosecutrix was below 18 years. From the statement of the Prosecutrix as well as other witnesses, it is also well established that she was abducted by the Appellant and he committed rape with her. Considering the evidence available on record, the trial Court has rightly convicted the Appellant which does not require any interference.
8. Consequently, I do not find any merit in this appeal. The same is dismissed.

Sd/-
(Arvind Singh Chandel)
Judge