

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 82 of 2012**

Dharmendra S/o Bendaram Sarthi, aged about 24 years R/o Village Churtela, Police Station Dabra, District Janjgir-Champa (C.G.), Original resident of Parsada, Police Station Bupdevpur, District Raigarh (C.G.).

---- Appellant

Versus

State of Chhattisgarh through District magistrate, Jagdalpur, Janjgir-Champa (C.G.)

---- Respondent

For Appellant	:	None.
For Respondent	:	Ms. Shriya Mishra, PL

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

27/09/2019

1. By the impugned judgment dated 26/11/2011 passed in Session Trial No. 163/2010 by the Additional Sessions Judge, Sakti, District Janjgir-Champa (C.G.), whereby the Appellant has been convicted under Sections 363, 366 (क) and 376 (1) of the Indian Penal Code and sentenced to undergo RI for 3 years with fine of Rs. 500/-, RI for 3 years with fine of Rs. 500/- and RI for 7 years with fine of Rs. 1000/-, respectively, with default stipulations.
2. Facts of the case are that at the relevant time, the age of the Prosecutrix was about 13 years and she was studying in Class-7th. On 23/01/2010 at about 7 pm, when the Prosecutrix was standing near Jait Khamba, it is alleged that the Appellant came there and asked her to sit on her motor-cycle for roaming. Thereafter, the Prosecutrix

proceeded along with him. The Appellant took the Prosecutrix towards Nehar and caught hold her. He removed her clothes and committed sexual intercourse with her. When the Prosecutrix tried to raise her voice, the Appellant closed her mouth and threatened her with dire consequences. On account of pain, when the Prosecutrix raised alarm, at that time father of the Prosecutrix along with Heera Lal Baghel and Baliram Sahu came there. After seeing them, the Appellant fled away from the spot. The Prosecutrix narrated the entire incident to them. Thereafter, a report was lodged and on that basis, offence has been registered. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges. As many as 18 prosecution witnesses have been examined. No defence witness has been examined. 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.

3. After trial, the trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Bilaspur would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released 15/03/2016.
5. Since no one appears for the Appellant today, I decide this appeal on merits.
6. I have heard Learned Counsel appearing for the State and perused the record to assess the correctness of the impugned judgment of conviction.

7. As per entries of Dakhil Karij register, Article-B and entries made in the mark-sheet of Class-7th, Article -A belonging to the Prosecutrix, it is well established that at the relevant time, the age of the Prosecutrix was about 12 years 5 months and 11 days. The Prosecutrix (PW1) in her Court statement has categorically stated that at the time of incident, when she was sitting near her house, the Appellant came to her on motor-cycle and took her with him for moving her and there. Thereafter, near the canal, the Appellant caught hold her and removed her clothes, and committed sexual intercourse with her. AS stated by this witness, at that time her father Jeevan Lal (PW4), Horilal Baghel (PW2) and Bali Ram (PW3) reached there and on seeing the, the Appellant fled away from the spot. The above statement of the Prosecutrix is dully corroborated by the above witnesses namely Jeevan Lal (PW4), Horilal Baghel (PW2) and Bali Ram (PW3). All the above witnesses were remained firm during their cross-examination. Moreover, after the incident, the matter was reported.
8. From the above evidence, it is well established that at the time of incident, the Appellant abducted the Prosecutrix who was aged about 12 ½ years and committed sexual intercourse with her.
9. Considering the entire evidence available on record, the trial Court has rightly convicted the Appellant which does not require any interference.
10. Consequently, I do not find any merit in this appeal. The same is dismissed.

**Sd/-
(Arvind Singh Chandel)
Judge**