

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Judgment reserved on 25-1-2019

Judgment delivered on 7-2-2019

CRA No. 558 of 2009

- Rewalal Paw, aged about 25 years, son of Shri Rangalal Paw, r/o. Village Karhaniya, PS Marwahi, District Bilaspur (CG).

---- Appellant

Versus

- State of Chhattisgarh through Police Station Marwahi, District Bilaspur (CG).

---- Respondent

 For Appellant : Mr. Y.C. Sharma, Advocate
 For respondent/State : Mr. V.B. Singh, Panel Lawyer

Hon'ble Shri Justice Ram Prasanna Sharma
CAV Judgment

1. This appeal is preferred against the judgment of conviction and order of sentence dated 25-7-2009 passed by Additional Sessions Judge (FTC), Pendra rad, Bilaspur (CG) in Sessions Trial No. 51 of 2008 wherein the said Court has convicted the appellant for commission of offence under Section 376 (1) of the IPC and sentenced him to undergo rigorous imprisonment for seven years and to pay fine of Rs.200/-.

2. In the present case, prosecutrix is PW/1. As per prosecution case, on 16-9-2008 at about 11.00 a.m prosecutrix was going for plucking Karel (vegetables) with another girl namely Sunita. On the way, suddenly the

appellant came there, outraged her modesty and committed rape on her. The matter was reported and investigated. After completion of trial, the trial Court convicted and sentenced him as aforementioned.

3. Learned counsel for the appellant would submit as under:

- i) As per report of Dr. Sheela Shah (PW/11), no internal injury was found on the body of the prosecutrix, therefore, version of the prosecutrix is contradicted by version of medical expert.
- ii) There is delay in lodging the report without sufficient cause which creates doubt on prosecution story.
- lii) The appellant was posted as Forest Guard and he caught the prosecutrix when she had stolen the vegetables, that is why prosecutrix made false complaint against him.
- iv) The finding arrived at by the trial court is bad-in-law and same is liable to be set aside.

4. 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 marshalling of the evidence and the same is not liable to be interfered while invoking the jurisdiction of the appeal.

5. I have heard learned counsel for the parties and perused record of the court below in which impugned judgment is passed.

6. Prosecutrix (PW/1) deposed before the trial Court that when she had gone to pluck Kareli in the forest accompanied by her sister's daughter namely Sunita, at that time the appellant reached there and asked them that security person is coming, that is why they started to flee away. When she started fleeing, the appellant caught hold her and committed rape on her. When she started weeping appellant threatened her to assault. As per version of this witness, she narrated the story to her paternal aunt Sumitra and when she asked the appellant to keep her with him, he denied the incident. Thereafter one Panchayat was convened in the village, but they did not decide the issue, that is why report was lodged as per Ex.P/1. Version of this witness is supported by version of Amol Sai (PW/2) who is brother of the prosecutrix and PW3 Amar Sai, who is father of the prosecutrix and Simitri

Bai (PW/8) to whom the story was narrated. All the witnesses have been subjected to searching cross-examination, but remained unshaken. There is no infirmity in the statement of the prosecutrix regarding commission of rape. Minor contradictions which do not go to the root of the case are insignificant and therefore, minor contradictions have no adverse affect to the entire case of the prosecution.

7. The statement of the prosecutrix is quite natural, inspires 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.

8. It is true that there is delay of seven days in lodging the report at Police Station. From the statement of the prosecutrix, it is clear that she had gone to the appellant and asked him to keep her with him and when he denied the incident a panchayat was convened and they did not decide the issue, the matter was reported to Police Station. Where report of rape is to be lodged many questions would obviously crop up for consideration before one finally decides

to lodge the FIR. It is difficult to appreciate the plight of victim who has been criminally assaulted in such a manner. Obviously prosecutrix must have also gone through great turmoil and only after giving it a serious thought, must have decided to lodge the FIR. Precisely this appears to be the reasons for little delayed FIR. The delay in a case of sexual assault, cannot be equated with the case involving other offences. There are several factors which weigh in the mind of the prosecutrix and her family members before coming to the Police Station to lodge a complaint. In a tradition bound society prevalent in India, more particularly, rural areas, it would be quite unsafe to throw out the prosecution case merely on the ground that there is some delay in lodging the FIR.

9. After assessing the evidence, this court has no reason to say that the appellant has been falsely implicated. There is no reason to disbelieve the evidence of prosecutrix and other witnesses and this court has no reason to substitute the contrary finding. The trial Court has evaluated the evidence elaborately and came to conclusion that the appellant is guilty of commission of rape which is punishable under Section 376(1) of IPC for which the trial Court has convicted the appellant and same is hereby affirmed.

10. Heard on the point of sentence.

The trial Court awarded RI for seven years for offence of rape under Section 376 (1) of IPC which cannot be termed as harsh or unreasonable or disproportionate. Sentence part is also not liable to be interfered with.

11. Accordingly, the appeal being devoid of merits is liable to be and is hereby dismissed. The appellant is reported to be in jail, therefore, no further order for his arrest etc., is required.

Sd/-

(Ram Prasanna Sharma)

Judge

Raju