

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 232 of 2012

Ram Singh Nishad S/o Aghanu Nishad, aged about 50 years R/o Village Baghera, P.S. Somni, Tahsil & District Rajnandgaon (C.G.).

---- Appellant

Versus

State of Chhattisgarh through Police Station Somni, District Rajnandgaon (C.G.)

---- Respondent

For Appellant	:	None.
For Respondent	:	Mr. Sushil Sahu, PL.

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

21/10/2019

1. By the impugned judgment dated 24/02/2011 passed in Sessions Case No. 62/2009 by the Special Judge, Rajnandgaon (C.G.), the Appellant has been convicted under Section 376 (1) of the IPC and sentenced to undergo RI for 07 years and to pay fine of Rs. 5000/- with default stipulation.
2. Facts of the case are that the Prosecutrix (PW1) was residing at village Baghera along with her parents. On 03/10/2009 at about 6:30, when she was going to her friend's house namely Tijan, at that time the Appellant caught hold her and committed rape with her. Thereafter, the Appellant himself left the Prosecutrix in her house. The Prosecutrix narrated the whole incident to her mother, father and other persons of the village. A report has been lodged vide Ex.P-1. The Prosecutrix was medically examined by Dr. Sajida Alam (PW8). Her report is Ex.P-4. Statement of the witnesses under Section 161 of the Cr.P.C

were recorded. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges under Section 376 (1) of the IPC and Section 3 (1) (12) and 3 (2) (5) of the Schedule Caste/Schedule Tribe (Prevention of Atrocities) Act. As many as 13 witnesses have been examined. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C was recorded wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has acquitted the Appellant from the charge framed Section 3 (1) (12) and 3 (2) (5) of the Schedule Caste/Schedule Tribe (Prevention of Atrocities) Act, 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, Durg would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released 12/05/2015.
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. In her Court statement, the Prosecutrix (PW1) has deposed that on 03/10/2009 when she was going to her friend's house then the Appellant came from behind and caught hold her. He closed her mouth and took her towards Badi. There, he committed Marpeet with

her. He forcibly committed sexual intercourse with her. When she tried to ran away, he threatened her to kill and again committed sexual intercourse with her. She further deposed that the Appellant had committed sexual intercourse with her 3-4 times. He also inserted some hard object in her private part due to that bleeding came. She further deposed that the Appellant threatened her not to disclose this matter to anyone. Thereafter, he took the Prosecutrix on the way and leaft her. She, any how, reached to her house and narrated the whole incident to her mother, Babhi and Aunty. She also narrated the incident to Kotwar, Santosh. After all this, a report Ex.P-1 was lodged. She further deposed that vide Ex.P-5, the police has seized her Saree, under garments and Peticcoat which was sustained with blood. The Police also seized shirt of the Appellant and broken pieces of bangles from the spot vide Ex.P-6. This witness was remained firmed during her cross-examination. Her statement is duly corroborated by Meena Bai (PW2), mother of the Prosecutrix, Amrita (PW3) and Bharat (PW4), father of the Prosecutrix. All the above witnesses have categorically stated that the Prosecutrix came to them in injured condition and stated that the Appellant had committed rape with her. Santosh (PW4) Kotwar has also supported the case of the prosecution. Moreover, Dr. Sajida Alam (PW8) who had examined the prosecutrix, had opined that there were injuries on the private part of the Prosecutrix.

8. On minute examination of the above evidence, it is clear that the Prosecutrix, just after the incident, has categorically narrated the whole incident to her parents, and her statement is duly corroborated by other witnesses as well as her medical report. Therefore, in my considered opinion, the trial Court has rightly convicted the Appellant

which does not require any interference.

9. Consequently, I do not find any merit in this appeal. The same is dismissed.

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

Rahul