

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Judgment reserved on 20-2-2019
Judgment delivered on 28-03-2019

CRA No. 765 of 2012

- Prabhu Yadav s/o. Rajaram Yadav aged 25 years, r/o. Gondaiya thana Ratanpur, Dist. Bilaspur (CG).

---- Appellant

Versus

- State of Chhattisgarh through Police Station Ratanpur (CG).

---- Respondent

For Appellant : Mr. T.K. Tiwari Advocate
appears as Amicus Curiae.

For respondent/State : Mrs. Subha Shrivastava, P.L.

Hon'ble Shri Justice Ram Prasanna Sharma

CAV Judgment

1. This appeal is preferred against the judgment of conviction and order of sentence dated 7-8-2012 passed by the Sessions Judge, Bilaspur in Sessions Trial No. 96 of 2011 wherein the said Court has convicted the appellant for commission of offence under Sections 450 & 376 (1) of the IPC and sentenced him to undergo rigorous imprisonment for three years and to pay fine of Rs.500/- and RI for seven years and fine of Rs.500/- with default stipulations. Both sentences are directed to run concurrently.

2. In the present case, prosecutrix is PW.2. As per prosecution case, on 16-4-2011 at night the appellant

entered into the house of the prosecutrix where prosecutrix was sleeping on the bed. He removed her Salvar and other garments and thereafter committed rape on her. Prosecutrix informed about the incident to her paternal uncle who slept nearby. The matter was reported and investigated. After completion of trial, the trial Court convicted and sentenced the appellant as aforementioned.

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

- i) The trial court has overlooked omissions and contradictions in the statement of the prosecutrix and other witnesses.
- ii Medical report is not supporting the version of prosecution, therefore, finding of the trial Court is not liable to be sustained.

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/2) deposed before the trial court that at about 11.00 pm on the date of incident she was sleeping in her room and at the same time she saw that the appellant is present over her bed and removed her garments and thereafter committed rape on her. She further deposed that appellant pressed her mouth during course of incident. She further deposed that she called his paternal uncle who found the appellant hidden in the house. Thereafter, the matter was reported to Kotwar and people of the locality. Version of this witness is supported by version of Rajaram Yadav (PW/3) and Sonau Ram (PW/4). All the witnesses have been subjected to searching cross-examination but nothing could be elicited in favour of defence side. Version of this witness is again supported by version of Dr.A.M. Shrivastava (PW/1) who examined the appellant and found him capable of intercourse. The date of incident is 15-4-2011 at night and report was lodged at Police Station Ratanpur next day i.e., 16-4-2011 in which name of the appellant is clearly mentioned as culprit and his act of rape is also mentioned in the said report.

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 one day in lodging the report at 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.

10, On overall assessment, it is established that appellant entered into the house of the prosecutrix and committed rape on her which is offence under Sections 450 and 376(1) of the IPC for which the trial Court convicted him and same is hereby affirmed. The trial Court awarded RI for seven years for offence of rape under Section 376 (1) of IPC and RI for three years for offence of house-trespass under Section 450 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. As the appellant is reported to be in jail, therefore, no further order for his arrest etc., is required.

Sd/-

(Ram Prasanna Sharma)

Judge

Raju