

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 158 of 2011

Jagesh Rajwade, aged about 30 years, S/o Ramlal Rajwade, R/o Golhabhat, P.S. Baikunthpur, District Korea (C.G.)

---- Appellant

Versus

State of Chhattisgarh, through Police Station Baikunthpur, Distt. Korea (C.G.)

---- Respondent

For Appellant	:	None.
For Respondent	:	Ms. Smriti Shrivastava, PL

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

29/07/2019

1. By the impugned judgment dated 17.02.2011 passed in S.T. No. 43/2010 by the First Additional Sessions Judge, Manendragarh at Baikunthpur, District Korea (C.G.), the Appellant has been convicted under Section 450 of the Indian Penal Code, under Section 376 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 07 years with a fine of Rs. 1000/-, rigorous imprisonment for 07 years with a fine of Rs.1000/- respectively with default stipulations.
2. As per the prosecution story, on 01.03.2010 at Village Golhaghat Barabatpara festival of Holi was being celebrated. The prosecutrix Laxmania Bai (PW-2) was in her house along with her husband. It is alleged that at about 7:30 P.M., the Appellant came there along with

Nanku & Anil and they invited husband of the prosecutrix for liquor, after lapse of an half hour, the Appellant came back and saw that the prosecutrix was alone in her house, he committed forcibly sexual intercourse with her. Thereafter, the matter was reported by the prosecutrix. The statements of prosecutrix and other witnesses have been recorded under Section 161 of Cr.P.C. The prosecutrix was medically examined by Dr. Shalini Sharma (PW-8), her report is Exhibit P-15, as per medical report of prosecutrix, multiple injuries were found on her body. After completion of the investigation the charge-sheet had been filed. Trial Court has framed the charges under Section 376 and 450 of IPC. To prove the guilt of the Appellant, the prosecution has examined as many as 12 witnesses. No defence witness has been examined. Statements of the Appellant under Section 313 of the Cr.P.C. were recorded, wherein they have pleaded their 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. Vide memo dated 29.07.2019 received from Central Jail, Bilaspur, wherein, it has been reported that on 05.04.2016 Appellant has been released from jail after completion of his entire jail sentence imposed upon him by the Trial Court.
5. Since no one appears for the Appellant today, I am going to 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 statement recorded before Trial Court prosecutrix PW-2 has stated that on the date of incident Appellant came to her house along with Anil and Nanku, they demanded liquor from her husband, he told them that he has no liquor. Thereafter, they have taken her husband with them to buy some liquor. It was further stated by prosecutrix that after half an hour the Appellant came alone and committed forcible sexual intercourse with her, due to that she sustained some injuries on her back side as well as near eyes. It was further deposed by her that after the incident she narrated the whole incident to Sahdev, Janki and thereafter to the husband Jagsai and then FIR Exhibit P-7 was lodged by her. Sahdev (PW-3) and Jagsai (PW-5) duly corroborated the above statements of prosecutrix. The prosecutrix was medically examined by Dr. Shalini Sharma (PW-8) on 03.03.2010, her report is Exhibit P-15. As opined by Dr. Shalini Sharma (PW-8), though no definite opinion can be given regarding recent sexual intercourse but she found injuries on the body of prosecutrix which were on her neck, both legs, right shoulder and cheeks.
8. On minute examination of above evidence it makes clear that prosecutrix PW-2 has categorically stated that on the date of incident when she was alone in her house Appellant came there and committed forcible sexual intercourse with her. Her statements is duly corroborated by Sahdev (PW-3) and Jagsai (PW-5). As per medical report of prosecutrix it is also clear that prosecutrix received certain injuries on her body. Prosecutrix have remain firm during her cross-examination. Considering the entire evidence available on record in my

considered opinion, learned Trial Court has rightly convicted the Appellant. With regard to the sentence part, looking to the act committed by Appellant, sentence awarded by the learned Trial Court is also just and proper.

9. Consequently, the appeal has no merit and the same is liable to be and is hereby dismissed.

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