

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Reserved on 25.04.2019**

**Pronounced on 26.04.2019**

**CRIMINAL APPEAL No. 658/2006**

(Arising out of judgment of conviction and order of sentence dated 07.08.2006 passed by the Sessions Judge, Durg in S.T. No. 280/2005)

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R. Ravi Kumar Son of Raju, aged 20 years, R/o. HSCL Labour Colony Khursipar, Bhilai, Distt. Durg (CG)

**Appellant**

**Versus**

State of Chhattisgarh through SHO, Chhawani Police Station Bhilai, Distt. Durg (CG)

**Respondent**

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For Appellant : Shri Vivek Shrivastava, Adv.  
For Respondent/State : Shri Washim Miyan, Panel Lawyer.

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**Hon'ble Mr. Sharad Kumar Gupta, Judge**

**C.A.V. JUDGMENT**

1. In this criminal appeal, challenge is levied to the judgment of conviction and order of sentence dated 07.08.2006 passed by the Sessions Judge, Durg in S.T. No. 280/2005 whereby and whereunder he convicted and sentenced the appellant as under:-

| Sr. No. | Offence u/S.     | Sentence                             | In default of payment of fine |
|---------|------------------|--------------------------------------|-------------------------------|
| 1.      | 450 of IPC       | RI for 3 years and fine of Rs. 500/- | RI for 1 month                |
| 2.      | 376(2)(g) of IPC | RI for 10 years and fine of Rs.500/- | RI for 1 month                |

Both the jail sentences have directed to run concurrently.

2. In brief the prosecution story is that on 30.09.2005 prosecutrix was 20 years old. She was residing in Anjali Hotel, Khursipar, Bhilai. She was labourer in that hotel. On 30.09.2005 she was sleeping in a room of the said hotel. At about 12-01 p.m., appellant and co-accused Sunil Mahar entered in her room and committed forcibly sexual intercourse with her one by one. After completion of investigation, a charge-sheet was filed against him and co-accused Sunil Mahar. After completion of trial, the trial Court convicted and sentenced the appellant as aforesaid.

3. Counsel for the appellant submitted that trial Court has not appreciated the evidence in proper perspective. Thus, the conviction and sentences of the appellant are bad in eyes of law. Hence, appellant may be acquitted of the aforesaid charges.

4. Counsel for the State argued that the conviction and sentences of the appellant are based on clinching evidence. The conviction and sentences of the appellant do not call for any interference by this Court.

5. As per the alleged MLC report Ex.P-13, P.W.8 Dr. M.R. Kurrey had examined the appellant and opined that he is capable to perform the sexual intercourse.

6. There is no such evidence on record on strength of which it can be said that Ex.P-13 is not believable, thus, this Court believes on Ex.P-13.

7. P.W.-1 prosecutrix says in para 1 of her statement given on oath that she was sleeping in a room of Anjali Hotel. Appellant and co-accused Sunil Mahar entered in her room and committed forcibly sexual intercourse with her one by one.

8. P.W.-2 Uma Shanker, who is the owner of Anjali Hotel says in paras 1 & 2 of his statement given on oath that prosecutrix had told that she was sleeping in the room, appellant and co-accused Sunil Mahar had entered in her room and committed sexual intercourse with her.

9. P.W.-2 Rangappa says in para 1 of his statement given on oath that he had seen in the room of prosecutrix, appellant was present there.

10. P.W.-4 Arun Kumar says in para 2 of his statement given on oath that prosecutrix had told him that in the last night appellant and co-accused Sunil Mahar had committed rape with her after entering in her room.

11. D.W.-1 Smt. Suresh Devi Verma says in para 1 of her statement given on oath that on account of allegedly not paying the money for breakfast, a quarrel was happened between appellant and Uma Shanker. Uma Shanker gave threatening that he will implicate him in a false case.

12. On behalf of appellant, during the cross-examination of P.W.-2 Uma Shanker, no suggestion was given to him that on account of allegedly not paying the money for breakfast, a quarrel was happened

between appellant and him. He gave threatening that he will implicate the appellant in a false case.

13. As per alleged FIR, Ex.P-1, appellant and co-accused Sunil Mahar were entered in the room of prosecutrix and committed forcibly sexual intercourse with her one by one.

14. There is no such evidence on record on strength of which it can be said Ex.P-1 is fabricated or concocted.

15. There is no such evidence on record on strength of which it can be said that the aforesaid statements of P.W.-1 prosecutrix, P.W.-2 Uma Shanker, P.W.3- Rangappa, P.W.-4 Arun Kumar are not simple, not natural, not normal. Thus, this Court disbelieves the aforesaid statements of D.W.-1 Smt. Suresh Devi Verma.

16. Looking to the above mentioned facts and circumstances of the case, this Court finds that prosecution has succeeded to prove beyond reasonable doubt the charges punishable under Sections 450, 376(2) (g) against the appellant.

17. After appreciation of the evidence discussed herebefore, this Court finds that trial Court has not committed any illegality in convicting and sentencing the appellant as aforesaid. Hence, the appeal deserves to be dismissed.

18. The appeal is accordingly dismissed. The conviction and sentences of the appellant are hereby affirmed.

19. As per the report received from the Central Jail, Durg, dated 04.04.2019 the appellant has served the entire sentences including the fine sentences and has been released on 10.08.2013. Thus, no further order is required.

**Sd/-**  
**(Sharad Kumar Gupta)**  
Judge