

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 708 of 2014**

Arun Kumar Pandey S/o Shri Sadanand Pandey Aged About 45 Years R/o Navrang Chowk, Boriya Khurd, Ps Tikrapara Raipur, Distt. Raipur, Civil And Rev. Distt. Raipur C.G. , Chhattisgarh.

---- Appellant**Versus**

State Of Chhattisgarh Through Sho, Ps Tikrapara, Raipur Distt. Raipur C.G., Chhattisgarh.

---- Respondent

For the Appellant : Shri Suresh Kumar Verma, Advocate.
For the Respondent/ State: Shri Lav Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Judgment on Board****18.01.2019**

1. This appeal has been preferred against the judgment of conviction and order of sentence dated 2.7.2014 passed by the Learned Additional Sessions Judge (FTC), Raipur, District Raipur, Chhattisgarh in Sessions Trial No.19 of 2013, whereby and whereunder, the learned Additional Sessions Judge has convicted the appellant under Sections 354(B) and 323 of the Indian Penal Code and Section 12 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo rigorous imprisonment for 3, SI for 3 months and RI for 3 years and to pay fine of Rs.500/- each, in default of payment of fine, to further undergo SI for 1 month, 15 days and one month respectively with a direction to run all the sentences concurrently.
2. Conviction is impugned on the ground that without there being any iota of evidence, the trial Court has convicted and sentenced the appellant as

aforementioned and thereby committed illegality.

3. The case of the prosecution, in brief, is that the appellant who is father of the minor victim made an indecent proposal to her and when she refused she was threatened and then assaulted by him. The victim narrated about this incident to her mother. Thereafter, FIR Ex. P/2 was lodged by the victim PW-2. On that basis, the investigation was made. After completion of all the Investigative procedures, charge-sheet was filed against the appellant before the concerned Court.

4. During trial, the Court below framed the charges against the appellant under Sections 354B, 506, 323 of the Indian Penal Code and Section 12 of the Protection of Children from Sexual Offences Act, 2012. The prosecution examined 5 witnesses to prove the guilt of the appellant. One witness was examined in defence. Statement of the appellant was recorded under Section 313 of the Cr.P.C. wherein the appellant denied the circumstances appearing against him and pleaded innocence and false implication in the crime in question. It was submitted by him that his wife is living with some other person and she does not want to live with the appellant, therefore, on account of this enmity, at her behest, the victim has lodged false FIR against him.

5. After affording opportunity of hearing to both the parties, learned trial Judge convicted and sentenced the appellant as aforementioned.

6. I have heard learned counsel for the parties, perused the judgment impugned and records of the Court below.

7. It is submitted by the learned counsel appearing on behalf of the appellant that the appellant has been erroneously convicted in this case without there being any cogent and reliable evidence of the prosecution. The deposition of victim (PW-2) cannot be regarded as reliable and she was under the influence of her mother who is residing separately from the appellant on account of disputes between them. Similar statement of Smt. Gayatri Pandey (PW-3), who is the wife of the appellant having dispute with him cannot be relied upon for the reason of her interestedness. Apart from that, no other witness was examined. Therefore, the conviction of the appellant is bad in law. Hence, it is prayed that he may be acquitted. It is also submitted that according to the information received, the appellant has undergone the whole sentence of imprisonment and he has also paid the fine amount imposed upon him and has been released from jail.

8. Learned counsel for the State opposes the grounds raised in appeal and the submissions made in this respect. It is submitted that the prosecution has proved its case beyond all reasonable doubt. Hence, there is no room for interference in the impugned judgment, hence, the appeal be dismissed.

9. I have heard the learned counsel for the parties and perused the record of the Court below.

10. The point in issue in this appeal is whether the prosecution has proved the charges against the appellant on the basis of the evidence beyond

reasonable doubt?

11. Perused the deposition of all the relevant witnesses in this case. After closely scrutinizing the evidence of all the relevant witnesses in this case and after due consideration, I am of this view that the trial Court has not committed any error in relying upon the deposition of the victim (PW-2) and her mother Smt. Gayatri Pandey and coming to this conclusion that the appellant is guilty for the offences under Sections 354(B) and 323 of the Indian Penal Code and Section 12 of the Protection of Children from Sexual Offences Act, 2012. Therefore, the appeal is without any substance and it is dismissed accordingly.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi