

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 208 of 2013**

- Avinash Tandi S/o Chintaram, Aged About 23 Years, R/o Village Thakurdiyakala, Police Station Pithora, District Mahasamund C.G., Chhattisgarh

---- Appellant**Versus**

- State Of Chhattisgarh Through Police Station Pithora, District Mahasamund C.G., Chhattisgarh

---- Respondent

For Appellant : Shri Manoj Paranjpe, Advocate.

For Respondent/State: Shri Rahul Tamaskar, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Judgment on Board****17/01/2019**

1. This appeal has been preferred against judgment dated 27-02-2012 passed in Sessions Trial No.43/2011 by the second Additional Sessions Judge, Mahasamund, C.G. convicting the appellant under Section 363, 366, 368 and 376 of the IPC and sentencing him with R.I. for 4 years, R.I. for 4 years, R.I. for 4 years and R.I. for 7 years along with fine Rs.500/-, Rs.500/-, Rs.500/- and Rs.1000/- with default stipulations and direction that all the jail sentences shall run concurrently.
2. The prosecution case, in brief, is this, on 13-03-2011 when the minor prosecutrix had been for tuition at about 11 am in the morning and did not come back, her father Tuklal (PW-1) filed a missing report (Ex.-P/1) in Police Station Pithura naming the appellant and co-accused Ajay Tandi as the persons he suspected. On that basis the FIR Ex.-P/2 was lodged against the appellant and co-accused

person. The minor prosecutrix was recovered when the appellant produced her in the police station. On the basis of the statement given by the prosecutrix and other witnesses, the investigation was conducted and after completion of the investigation charge sheet was filed.

3. The appellant was charged with offence under Sections under Sections 363, 366, 368 and 376 of the IPC and the co-accused was charged with offence under Sections 363 and 366 of the IPC, to which they denied and prayed for trial.
4. After completion of the prosecution evidence, the appellant and the co-accused were examined under Section 313 of the Cr.P.C., in which the appellant and the co-accused both denied all the incriminating evidence against them, pleaded innocence and false implication. No witness was examined in defence.
5. After completion of the trial, the impugned judgment has been passed where in co-accused Ajay Tandi has been acquitted from all the charges against him whereas this appellant has been convicted and sentenced as aforementioned.
6. It is submitted by learned counsel for the appellant that the prosecution has failed to prove the offence against the appellant, therefore, his conviction is bad in law. The statement of the prosecution witnesses are self contradictory and all the witnesses were interested in conviction of this appellant. It is also submitted that the prosecution has clearly failed to prove that age of the prosecutrix was below 18 years. It is also submitted that according to the information received, the appellant has got remission in

sentence of imprisonment imposed upon him by the Court below and he has been released from jail, even then for the purpose of restoring the prestige of the appellant the appeal may be allowed.

7. Learned counsel for the State/respondent opposes the grounds raised in the appeal and the submission made in this regard and submits that the prosecution has proved its case beyond reasonable doubt. Hence, there is no reason for interference in the findings recorded by the trial Court. Therefore, the appeal may be dismissed.
8. Heard learned counsel for the parties and perused the record of the trial Court.
9. Perused the entire evidence present in the record of the trial Court and after closely scrutinizing the same, I am of this opinion that the trial Court has not committed any error in convicting the appellant for the offences as aforesaid and in sentencing him accordingly. Therefore, this appeal is without any substance, hence, the same is accordingly dismissed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge