

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1167 of 2013

- Tuleshwar Rajwade S/o. Gharbharan Rajwade aged about 19 Years R/o. Village-Dumaria, P.S. Surajpur, Distt. Surajpur C.G., Chhattisgarh

---- Appellant

Versus

- State Of Chhattisgarh Through P.S. Surajpur, Distt. Surajpur C.G., Chhattisgarh

---- Respondent

For the Appellant : Mr. Rahul Mishra, Advocate.

For the State/Respondent : Mr. A. N. Bhakta, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Judgment on board

24/01/2019

1. This appeal has been preferred against the judgment of conviction and order of sentence dated 28.5.2013, passed by the Additional Sessions Judge, Surajpur, Chhattisgarh, in Sessions Trial No.59/2011, convicting the accused/appellant under Sections 363, 366 & 376 of Indian Penal Code (for short 'IPC') and sentencing him to undergo SI for 1 year with fine of Rs.100/- & SI for 1 year with fine of Rs.100/- and sentencing him to undergo SI for 7 years with fine of Rs.100/- with usual default clauses, respectively.
2. The prosecution case, in brief, is this that the appellant abducted the minor prosecutrix on 7.12.2012 and then committed the offence of rape with her. FIR ExP-9 was lodged by mother of prosecutrix Meena

Bai PW-2, on that basis the offences were registered against the appellant. The case was investigated and after completion of all the investigative procedures, charge-sheet was filed before the Court below concerned.

3. Charges under Sections 363, 366 & 376 of IPC were framed against the appellant, he abjured his guilt and sought trial. The prosecution in order to prove its case examined 6 witnesses in all. Statement of appellant was also recorded under Section 313 of CrPC in which he denied all the incriminating evidence appearing against him, pleaded innocence and false implication. One witness was examined by appellant in his defence. On conclusion of trial appellant stands convicted and sentenced as aforementioned in the impugned judgment.
4. It is submitted by counsel for the appellant that as per report received from the concerned jail authority, the appellant has already been released from jail after serving out the entire substantive sentence imposed upon him by the trial Court. Even then, it is submitted that the appellant has been falsely implicated in the present case and has been convicted & sentenced by the trial Court without there being any evidence to sustain the conviction & sentence. Hence, the conviction of appellant under Section 363 & 366 of Indian Penal Code (for short 'IPC') is bad in law and fit to be set aside.
5. Learned counsel for the State has opposed the grounds raised in this appeal as also the arguments advanced by the counsel for the

appellant. It is submitted that prosecution has proved its case beyond doubt. The judgment impugned passed by the trial Court is strictly in accordance with law and needs no interference by this Court in exercise of its appellate jurisdiction. Hence, the appeal is liable to be dismissed.

6. I have heard learned counsel for the parties and perused the record of the trial Court including the impugned judgment.
7. The question that requires determination in this appeal is as to whether the prosecution has been able to establish guilt of accused/ appellant, on the basis of evidence beyond reasonable doubt ?
8. After perusing and closely scrutinizing the entire evidence available on record, it is apparent that the trial Court elaborately considered the evidence of each individual material witness in detail and that being the position, this Court is the opinion that the trial Court has not committed any mistake in arriving at a conclusion that the appellant is guilty for the offence punishable under Sections 363 & 366 of Indian Penal Code (for short 'IPC'). Hence, this appeal has no substance, the same is liable to be dismissed and is hereby dismissed.
9. Since the appellant has already served the period of rigorous imprisonment to which he was sentenced, no further direction regarding his surrender etc. is needed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge