

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 672 of 2013**

Umashanker @ Golu S/o Damdas Dahrey @ Gahrey Aged About 19 Years
R/o Patpar Para, Lal Bahadur Shastri Ward, Bhatapara, Ps Bhatapara, Civil
Distt. Raipur, Rev. Distt. Baloda Bazar - Bhatapara, Distt. Baloda Bazar -
Bhatapara C.G. , Chhattisgarh.

---- Appellant**Versus**

State Of Chhattisgarh Through Sho, Ps Bhatapara Town Distt. Baloda Bazar
- Bhatapara Civil Distt. Raipur C.G. , Chhattisgarh.

---- Respondent

For the Appellant : Shri Santosh Sahu, Advocate.
For the Respondent/ State: Shri Lav Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Judgment on Board****10.01.2019**

1. This appeal has been preferred against the judgment of conviction and order of sentence dated 27.6.2013 passed by the Learned Additional Sessions Judge, Bhatapara, District Raipur, Chhattisgarh in Sessions Trial No.1 of 2013, whereby and whereunder, the learned Additional Sessions Judge has convicted the appellant under Sections 376, 363 and 366 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 7 years, 3 years and 5 years and to pay fine of Rs.1,000/-, Rs.500/- and Rs.500/-, in default of payment of fine, to further undergo RI for 2 months, 1 month and 1 month, respectively, with a direction to run 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 prosecutrix (PW-4) went missing regarding which a missing report Ex. P/11 was lodged by Ahilya Bai (PW-1) on 29.9.2012. Subsequent to that, the prosecutrix (PW-4) was recovered from the custody of the appellant on 2.10.2012 vide panchanama Ex. P/1. Thereafter, the offences under Sections 376, 363 and 366 of the IPC were registered against the appellant vide FIR Ex. P/7. The prosecutrix in this case was a minor girl aged about 14 years on the date of incident. She was medically examined and the appellant was also medically examined. Investigation was made regarding the age of the prosecutrix and 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 450, 363, 366 and 376 of the Indian Penal Code. The prosecution examined 11 witnesses to prove the guilt of the appellant. No witness examined in defence. Statements of the appellant were 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.

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 wrongly convicted by the trial Court on the basis of the unbelievable evidence of the prosecution and the prosecution has totally failed to bring the evidence beyond reasonable doubt. It is also submitted that according to the information received, the appellant has undergone 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. 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 convicting and sentencing the appellant by the impugned judgment. Therefore, the appeal is without any substance and it is dismissed accordingly.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi