

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 761 of 2013**

- Satya Narayan Dhruw S/o. Mayaram, aged about 28 Years, R/o Village Tonatar in the Tahsil and Police Station-Bhatapara (Gramin) near P.O. Arjuni, Civil District-Raipur, Revenue District-Baloda Bazar/Bhatapara, Chhattisgarh.

---- Appellant

Versus

- State of Chhattisgarh through the SHO, P.S. Bhatapara, Civil Distt. Raipur and Rev. Distt. Baloda Bazar/Bhatapara, Chhattisgarh

---- Respondent

 For the Appellant : Mr. Santosh K. Verma, Advocate.

For the State/Respondent : Mr. Rahul Tamaskar, Panel Lawyer.

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 29.06.2013, passed by the Additional Session Judge, Bhatapara, District- Baloda Bazar, Chhattisgarh, in Sessions Trial No.32/2012, convicting the accused/appellant under Section 376 of Indian Penal Code (for short 'IPC') and sentencing him to undergo RI for 7 years with fine of Rs.1000/- in default of payment of fine to undergo additional RI for two months.
2. The prosecution case, in brief, is this that on 19.8.2012 at about 1.00pm in the afternoon, the prosecutrix PW-1 was all alone in her

house, the appellant committed house trespass and then forcefully committed the offence of rape with prosecutrix. On the same day, the prosecutrix narrated the entire incident to her mother Parvati PW-2 & sister Chainmati PW-3. FIR ExP-1 was lodged in the Police Station Bhatapara (Rural) by the prosecutrix herself on the basis of which offence under Section 376 of IPC was registered against the appellant.

3. On completion of investigation, the charge sheet has been filed before the concerned Court. Charges under Sections 450 & 376 of IPC were framed against the appellant, he denied the same and sought for trial. In order to prove the charge the prosecution had examined as many as 11 witnesses. Statement of appellant was recorded under Section 313 of CrPC in which he denied all the incriminating evidence appearing against him, pleaded innocence and false implication. No witness was examined by appellant in his defence. On conclusion of trial the appellant stands convicted and sentenced as aforesaid 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. It is also submitted that the appellant has been released from jail after

completion of sentence of imprisonment, hence, only to restore of prestige of appellant the appeal be allowed.

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 Section 376 of 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

Nisha