

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 546 of 2014

- Chandu @ Chandra Kumar Banjare S/o. Padman Kumar Banjare, aged about 20 Years, R/o. Ramsagarpara, Satnamipara, Dhamtari, P.S. City Kotwali, Dhamtari, Revenue and Civil District- Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, Through SHO City Kotwali, Dhamtari, Civil & Rev. Distt. Dhamtari, Chhattisgarh

---- Respondent

For the Appellant : Mr. P.K. Patel, Advocate.

For the State/Respondent : Mr. Avinash K. Mishra, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Judgment on board

07/02/2019

1. This appeal has been preferred against the judgment of conviction and order of sentence dated 30.05.2014, passed by the Additional Session Judge(FTC), Dhamtari, District- Dhamtari, Chhattisgarh, in Criminal Case No.16/2013, convicting the accused/appellant under Sections 363, 366 of Indian Penal Code (for short 'IPC') & Section 4 of the Protection of Children from Sexual Offences Act, 2012 and sentencing him to undergo RI for 7 years with fine of Rs.4000/-, RI for 3 years with fine of Rs.1000/- & R.I. for 5 years with fine of Rs.500/- with usual default clauses.

2. The prosecution case, in brief, is this that complainant Ram Bai PW-2, mother of minor prosecutrix PW-1 lodged a missing report in the police-station that whereabouts of her daughter prosecutrix PW-1 are not traceable. During inquiry, prosecutrix was recovered on 2.9.2013 vide Exhibit-P-1. FIR had been lodged against the appellant vide Exhibit P-10 on 25.5.2013 on the basis of the statement given by the prosecutrix, her medical examination report and other evidence collected in the course of investigation.
3. On completion of investigation, the charge sheet has been filed before the concerned Court. Charges under Sections 363, 366 of IPC & Section 4 of POCSO Act 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 9 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, 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 Sections 363, 366 of IPC & Section 4 of POCSO Act. 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