

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.1208 of 2016

Judgment Reserved on : 22.8.2019

Judgment Delivered on : 13.11.2019

Rambihari Yadu, son of Muritram, aged about 20 years, resident of Lawar Bhatapara, Police Station Simga, District Balodabazar-Bhatapara, Chhattisgarh

---- Appellant

versus

The State of Chhattisgarh through Station House Officer, Police Station Simga, District Balodabazar-Bhatapara, Chhattisgarh

--- Respondent

For Appellant : Shri Tarun Dansena, Advocate
For Respondent : Shri Amit Verma, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

C.A.V. JUDGMENT

1. This appeal is directed against the judgment dated 26.8.2016 passed by the Sessions Judge and Special Judge under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (henceforth 'the Act'), Balodabazar, in Special Sessions Trial No.7 of 2016 convicting and sentencing the Appellant as under:

<u>Conviction</u>	<u>Sentence</u>
Under Section 376 of the Indian Penal Code	Rigorous Imprisonment for 7 years and fine of Rs.1,000/- with default stipulation
Under Section 506 Part II of the Indian Penal Code	Rigorous Imprisonment for 3 months and fine of Rs.1,000/- with default stipulation
	The sentences are directed to run concurrently

2. Facts of the case, in brief, are that on 18.12.2015, the prosecutrix (PW1), a married woman and member of the Scheduled Tribe, lodged a report alleging that on 16.12.2015 she along with two other women, namely, Uttara and Durga were engaged by the Appellant for labour work in his field. At about 4:00 p.m., when the prosecutrix was carrying *para*, the Appellant caught her and forcibly committed sexual intercourse with her. He also threatened her that if she discloses the incident to anyone, he will kill her. Therefore, she did not disclose the incident to anyone on that day. Next day, she told the incident to her husband. Thereafter, she submitted a written complaint (Ex.P1). On the basis of Ex.P1, First Information Report (Ex.P2) was registered. On completion of the investigation, a charge-sheet was filed against the Appellant. Charges were framed against him under Sections 376 and 506 Part II of the Indian Penal Code and Section 3(2)(v) of the Act.
3. In support of its case, the prosecution examined as many as 12 witnesses. Statement of the Appellant/accused was also recorded under Section 313 of the Code of Criminal Procedure in which he denied the guilt and pleaded false implication. 1 witness has been examined in defence.
4. On completion of the trial, the Trial Court acquitted the Appellant of the charge under Section 3(2)(v) of the Act, but convicted and sentenced him as mentioned in the first paragraph of this judgment. Hence, this appeal.
5. Learned Counsel appearing for the Appellant submitted that the Appellant is innocent. Without there being sufficient evidence on record against him, he has been wrongly convicted by the Trial

Court. Statement of the prosecutrix is not reliable. Other independent witnesses have not supported the case of the prosecution. The report was lodged with inordinate delay and delay has not been explained. The finding of the Trial Court is baseless, perverse and contrary to the evidence on record. Therefore, the finding of conviction is liable to be set aside and the Appellant is entitled to get acquittal.

6. Per contra, Learned Counsel appearing for the State supported the impugned judgment of conviction and sentence.
7. I have heard Learned Counsel appearing for the parties and perused the record minutely.
8. The prosecutrix (PW1) has stated in her Court statement that on 16.12.2015 she along with Uttara and Durga went to the field of the Appellant for working as labour. At about 4:00 p.m., she was behind Uttara and Durga. The Appellant came there from her behind and caught her. She abused him and asked to leave her, but he did not leave her and caused her to fall down and thereafter committed rape with her. All the bangles of her one hand broke and fell down at the spot. Since the Appellant had threatened her of life and her husband was also not present at home on that date, she disclosed the incident to her husband when he returned home on the next day. Thereafter, on 18.12.2015, a written complaint (Ex.P1) was submitted by her. She has further deposed that the police had seized her yellow broken bangles from the spot.
9. Meghnath (PW2), husband of the prosecutrix has also stated that on 16.12.2015, he had gone to Raipur. He returned home on 17.12.2015 at about 9:00 p.m. Then the prosecutrix narrated him

the incident. Next day, the report (Ex.P1) was lodged.

10. Loknath (PW3) is the witness before whom police seized the broken bangles of the prosecutrix from the spot. He has supported the said seizure.
11. Though Durga (PW5) has not supported the entire case of the prosecution, she has admitted the fact that she, the prosecutrix and Uttara had gone to work in the field of the Appellant. The prosecutrix returned from the field after about 15-20 minutes of their return.
12. Khoman Sinha (PW8) and J.P.N. Singh (PW9) are the witnesses who investigated into the offence in question.
13. On a minute examination of the above evidence, it is clear that the prosecutrix has categorically stated that at the time of incident when she was left behind other labours, at that time, the Appellant caught her from her behind and after causing her to fall down he committed forcible sexual intercourse with her. As stated by this witness, her bangles broke at that time which were later on seized during the course of investigation. In paragraphs 22 and 25 of cross-examination of the prosecutrix, it has been suggested by the defence to the prosecutrix that the prosecutrix herself had been asking the Appellant to establish physical relationship with her and at the time of incident also she had threatened the Appellant that if he does not establish physical relationship with her, she will falsely implicate him. This suggestion of the defence does not appear to be natural and reliable in any way. There is nothing on record on the basis of which it could be said that there was any previous enmity between the prosecutrix and the Appellant. With regard to

delay in lodging the report, proper explanation has been offered by the prosecutrix and her husband. On the date of incident, in-laws of the prosecutrix were present at home, but it is natural that she would first disclose the incident to her husband. Considering the entire evidence adduced by the prosecution, it is well established that forcible sexual intercourse was done with the prosecutrix by the Appellant. Therefore, the Trial Court has rightly convicted the Appellant. The sentence imposed upon him also appears to be just and proper.

14. Consequently, the appeal is dismissed. The impugned judgment of conviction and sentence is affirmed.
15. Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
JUDGE