

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 143 of 2019

Heeru, S/o Late Basiya Uraon, aged about 50 years, R/o Village-Karji Mandaridand, P.S. Rajpur, District- Balrampur-Ramanujganj, Civil & Revenue District- Balrampur-Ramanujganj (C.G.)

---- Appellant

Versus

State of Chhattisgarh, through Police Station- Rajpur, District-Balrampur-Ramanujganj (C.G.)

---- Respondent

For Appellant : Mr. Manoj K. Sinha, Advocate.

For State/respondent : Mr. Ishwar Jaiswal, Panel Lawyer.

Hon'ble Shri Justice Ram Prasanna Sharma

JUDGMENT ON BOARD

09/01/2020

1. This appeal is preferred under Section 374 (2) of the Code of Criminal Procedure, 1973 against judgment dated 27.11.2018 passed by Additional Sessions Judge, Ramanujganj, District-Balrampur-Ramanujganj (C.G.) in Session Trial No. R32/2014, wherein the said court convicted the appellant for commission of offence under Section 376 (1) of IPC, 1860 and sentenced to undergo R.I. for 10 years and fine of Rs. 200/- with further default stipulations.
2. In the present case, prosecutrix is PW-1. As per version of the prosecution, on 26.12.2013 her husband went to Bariyo Market and the prosecutrix went to forest for grazing her cattle. At that time, the appellant came there with axe, caught hold her and committed sexual intercourse with her without

her consent and against her will. The matter was reported, the appellant was charge-sheeted and after completion of trial, the trial court convicted as mentioned above.

3. Learned counsel for the appellant submits that there is no credible evidence in relation to commission of rape. There is delay in lodging FIR and medical evidence is also not supported version of the prosecution, therefore, the finding arrived at by the trial court is liable to be set aside.
4. On the other hand, learned counsel for the respondent submits that the finding arrived at by the trial court is based on proper marshaling of evidence and the same does not warrant any interference of this Court with invoking jurisdiction of the appeal.
5. I have heard learned counsel for the parties and perused the record.
6. The prosecutrix (PW-1) deposed before the trial court that she went to Mandaridand forest for grazing her cow at that time, the appellant came there, made her lie-down and committed sexual intercourse with her without her consent and against her will. Version of this witness is unrebutted during cross-examination. It is further supported by version of Haricharan (PW-2), Kamla Kujur (PW-3) and Basanti (PW-4) to whom the incident was informed. Again, it is supported by version of Dr. Rupak Kumar (PW-9) who examined the appellant and found him capable of intercourse.

7. Looking to the ample evidence collected against the appellant which is supported by FIR, it cannot be said that the appellant has been roped in false charge. The statement of the prosecutrix is quite natural and inspiring confidence and when her evidence is inspiring confidence, no corroboration is required.
8. It is true that there is delay in lodging the report, but the delay in lodging the report in the case of sexual assault cannot be equated with the case involving other offences. The family members after giving it serious thought decided to lodge the report. Where report of rape is to be lodged, many questions would obviously crop up for consideration before one finally decides to lodge the FIR. There are several factors which weigh in mind of the prosecutrix and her family members before coming to the Police Station to lodge a complaint. In a tradition bound society prevalent in India, more particularly, in rural areas, it would be quite unsafe to throw out the prosecution case merely on the ground that there is some delay in lodging the FIR. In view of the above, the argument advanced on behalf of the appellant is not sustainable.
9. Looking to the entire evidence on record, the act of the appellant falls within mischief of Section 376 (1) of IPC, 1860 for which the trial court convicted the appellant and the same is hereby affirmed.
10. The minimum period of jail sentence prescribed for commission of offence under Section 376 (1) of IPC is 7

years. The sentence of the appellant is reduced to the period of 7 years. He shall be released from jail after completion of 7 years including the remission granted to him as per jail manual and executive direction. The fine amount imposed by the trial court shall remain intact.

11. With these modifications, the appeal is partly allowed.

Sd/-
(Ram Prasanna Sharma)
Judge

Arun