

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 576 of 2000****Judgment Reserved on 15/10/2019****Judgment delivered on 08/01/2020**

Tarun Kumar Sahu S/o Shri Manohar Sahu, aged about 26 years, R/o
Buddhupara, P.S. Deobhog, Distt. Raipur (M.P.) (Now CG)

--- Appellant**Versus**

State of Madhya Pradesh (Now Chhattisgarh)

---- Respondent

For Appellant	:	Mr. N.S. Dhurandhar, Advocate
For Respondent	:	Ms. Shriya Mishra, PL

Hon'ble Shri Justice Arvind Singh Chandel**CAV Judgment**

1. This appeal is directed against the judgment dated 09/02/2000 passed in Special Case No. 95/1999 by the Special Judge, Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act 1989, Raipur, whereby the Appellant has been convicted under Section 376 of the IPC and sentenced to undergo RI for 7 years.
2. Facts of the case are that on 14/04/1999 at about 12:00 noon, the Prosecutrix (PW1), a married lady aged about 20 years, had gone to attend the call of nature. At that time, the Appellant came there from behind and caught hold her. He threatened her to kill and committed forcible sexual intercourse with her. On being cry, her mother-in-law namely Fuguni Bai (PW2) reached to the spot. Seeing her, the Appellant fled away from the

spot. The Prosecutrix narrated the whole incident to Faguni Bai (PW2). At evening, when husband of the Prosecutrix, Gajendra (PW5) came to the house, she narrated the entire incident to him. Since, brother of Gajendra was working at Raipur, therefore, he went Raipur to inform him about the incident. Due to illness of his brother, he returned after some time. In village, a social meeting was commenced and thereafter the matter was reported by the Prosecutrix vide written complaint Ex.P-1. Statement of the Prosecutrix as well as other witnesses were recorded under Section 161 of the Cr.P.C. The Prosecutrix was medically examined by Dr. Smt. B. Kerkatta (PW13). Her report is Ex.P-13. After completion of investigation, a charge-sheet has been filed. Trial Court framed the charges under Section 376 of the IPC and Sections 3 (1)(12) and 3 (2) (5) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989. To prove the guilt of the Appellant, the prosecution has examined as many as 14 witnesses. No defence witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C has been recorded wherein he has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has acquitted the Appellant from the charges framed under Sections 3 (1) (12) & 3 (2) (5) of the Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989, however, he has been convicted and sentenced as mentioned in the first paragraph of this judgment. Hence, this appeal.
4. Learned counsel appearing on behalf of the Appellant has submitted that the Appellant has been falsely implicated due to some dispute with the husband of the Prosecutrix. If the entire story of the prosecution is taken

as it is, yet it seems that the Prosecutrix was the consenting party. Since her mother-in-law has seen her in compromising position with the Appellant, therefore, a false report has been made. He further submitted that the incident happened on 14/04/1999 and the matter was reported after 3 months of the incident, therefore, the entire story of the prosecution is not reliable.

5. Learned counsel appearing on behalf of the State opposes the same and supported the judgment of conviction passed by the trial Court.
6. I have heard learned counsel for the parties and perused the record minutely.
7. In her court statement, the Prosecutrix (PW1) has deposed that on the date of incident, she had gone towards field for attending the call of nature. The Appellant came there from behind and committed forcible sexual intercourse with her. When she tried to shout, he threatened her to kill. She slapped him and cried loudly. Listening her voice, her mother-in-law Faguni Bai (PW2) reached there and scolded the Appellant. Then, the Appellant fled away from the spot. She further deposed that when her husband returned in the evening, she narrated the entire incident to him. Thereafter, her husband went to Raipur to call his brother, but due to illness of his brother, he could not come back. Her husband returned after some time and thereafter, two times village meetings were commenced. In the meetings, settlement could not take place. Thus, a report was made vide Ex.P-1.
8. Faguni Bai (PW2), mother-in-law of the Prosecutrix has duly supported the

above statement of the Prosecutrix and deposed that on listening the cry of the Prosecutrix, she reached to the spot and saw that the Appellant was on the Prosecutrix. Seeing her, the Appellant fled away from the spot. This witness has also deposed that when his son returned in the evening, the Prosecutrix narrated the entire incident to him. Gajendra went to Raipur to call his brother. Since his brother was ill, he stayed there for some time. He returned to the village after some time and then a social meeting was conducted. Thereafter, the matter was reported.

9. Swadhar (PW3) and Kotwar Rajkumar (PW4) also stated that after the incident, the Prosecutrix and her mother-in-law narrated the entire incident to them. Thereafter, two times social meetings were conducted in the village. Damrudhar (PW6), Rambharosa (PW7) and Lalit Kumar (PW8) also stated that two times social meetings were conducted regarding the incident, where the Prosecutrix had complained that the Appellant had committed rape with her.
10. Gajendra (PW5), husband of the Prosecutrix has also deposed that when he reached to his house in the evening, the Prosecutrix narrated him about the incident. Then, he went to Raipur to call his brother, where his brother was ill. He stayed at Raipur for some times and returned to village after 20-25 days. In the village, two time social meetings were conducted. Thereafter, the matter was reported. Dr. Smt. B. Kerkatta (PW13) has examined the Prosecutrix on 13/07/1999. Her report is Ex.P-3. Jagmohan Singh Vatti (PW11), SDOP and B.K. Dwivedi (PW14) are the witnesses who investigated the entire matter.
11. On minute examination of above evidence, it is clear that the Prosecutrix in

her court statement has categorically stated that at the time of incident, when she had gone to attend the call of nature, the Appellant came from behind and caught hold of her. He threatened her to kill and committed forcible sexual intercourse with her. Her mother-in-law Faguni Bai (PW2) came there and then the Appellant fled away from the spot. The above statement of the Prosecutrix is duly corroborated by Faguni Bai (PW2). Both the above witnesses have remained firm during their cross-examination. From the statement of other witnesses, it is also clear that immediately after the incident, the Prosecutrix (PW1) and Faguni Bai (PW2) had informed the incident to Swadhar (PW3) and Kotwar Rajkumar (PW4). Thereafter, in the evening when husband of the Prosecutrix returned to the house, the Prosecutrix narrated the entire incident to him. From the statement of witnesses, it is also clear that two times social meetings were conducted in the village regarding the incident, where the Prosecutrix complained against the Appellant and stated regarding the incident. Though FIR has been lodged after 3 months, the Prosecutrix as well as her husband and mother-in-law are the villagers and they have duly explained about the delay in lodging the FIR. From the statement of the Prosecutrix, her mother-in-law and her husband, it is not established that there was any previous enmity between the Appellant and the Prosecutrix. In these circumstances, it cannot be said that the Appellant has been falsely implicated by the Prosecutrix. From the material available on record, offence is duly proved against the Appellant. Thus, the trial Court has rightly convicted and sentenced the Appellant as per the evidence available on record.

12. Accordingly, I do not find any merit in this case. The Appeal is dismissed.

13. Since, the Appellant has already been released from jail after completing the entire jail sentence imposed upon him by the trial Court, therefore, this judgment would not create any hindrance in the path of the Appellant and he would not require to further undergo in jail.
14. Records of the court below along with the copy of this judgment be sent back forthwith for necessary compliance and action.

Sd/-
(Arvind Singh Chandel)
Judge

Rahul