

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1055 of 2014

Rajesh Uraon S/o. Late Bechan Ram Aged About 22 Years R/o. Vill.
Narmadapur, P.S. Kamleshwapur, Civil And Rev. Distt. Surguja, C.G.

---- Appellant

Versus

State Of Chhattisgarh Through the SHO, P.S. Seetapur, Civil And
Rev. Distt. Surguja C.G.

---- Respondent

For Appellant	:	None.
For Respondent/State	:	Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

18/05/2020

1. By the impugned judgment dated 10/10/2014 passed in S.T. No. 05/2013 by the learned Additional Session's Judge (F.T.C.), Surguja, District Ambikapur (C.G.), the Appellant has been convicted for the offence punishable under Sections 363, 366 & 376 (1) of the Indian Penal Code and Sections 3 ¼/4 and 9 ¼/10 of the POCSO Act and sentenced to undergo rigorous imprisonment for 3 years, rigorous imprisonment for 5 years, rigorous imprisonment for 7 years, rigorous imprisonment for 7 years & rigorous imprisonment for 5 years and to pay fine of Rs. 1,000/-, 1,000/-, 5,000/-, 5,000 & 1,000/- respectively, with

default stipulations. All the sentences to run concurrently.

2. Facts of the case are that on 05.06.2013 at about 4 PM, the Appellant kidnapped the prosecutrix (PW-3) who was a minor girl studied in class 10th and taken her to his house situated at village Ranguapara and on the pretext of marriage committed sexual intercourse with her between the period from 05.06.2013 to 15.06.2013. After two days, the prosecutrix was recovered from the possession of the Appellant. After recovery, statement of the prosecutrix (PW-3) recorded and on the basis of her statement, FIR has been lodged. Thereafter, she was medically examined by Dr. Sanyogita Paikra (PW-5). Statements of other witnesses under Section 161 of Cr.P.C. have been recorded. After completion of investigation, charge-sheet has been filed. Trial Court has framed the charges under Sections 363, 366 & 376 (1) of the Indian Penal Code and Sections 3 ƛ/4 and 9 ƛ/10 of the POCSO Act. To prove the guilt of the Appellant, the prosecution has examined as many as 7 witnesses. No defense witness has been examined. Statement of the Appellant under Section 313 of the Cr.P.C. was recorded, wherein he has pleaded their innocence and false implication in the matter.
3. After trial, the trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. A certificate of incarceration sent by the Jail Superintendent,

Central Jail, Ambikapur District Surguja (C.G.) would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released on 10.10.2018.

5. Since no one appears for the Appellant today, I decide this appeal on merits.
6. I have heard Learned Counsel appearing for the State and perused the record to assess the correctness of the impugned judgment of conviction.
7. That, from the evidence available on record, it is well established that at the time of alleged incident, the prosecutrix (PW-3) was a minor girl aged below 18 years. In her Court statement, the prosecutrix categorically stated that the Appellant taken her to his house and on the pretext of marriage, he committed sexual intercourse with her. Her statement was not rebutted by the defense during her cross-examination and only a suggestion was made by the defense that due to love relationship with the Appellant, the prosecutrix (PW-3) has left her house on her own will and she was a consenting party in the alleged act.
8. From the above evidence available on record, it is clear that at the time of incident, the Appellant taken the prosecutrix (PW-3) with him and committed sexual intercourse with her. Since, the prosecutrix was a minor girl, therefore, she was not able to give her consent in the alleged act. There is sufficient evidence

available on record against the Appellant. Thus, the learned trial Court has rightly convicted the Appellant.

9. Consequently, the appeal has no merit and the same is liable to be and is hereby dismissed.

Sd/-
(Arvind Singh Chandel)
Judge