

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 652 of 2013

Rekhlal Gond S/o Shambhu Gond, aged about 35 Years R/o Village Magarwada, Thana: Taregaonjungal, Distt. Kabirdham , Chhattisgarh

---- Appellant

Versus

State of Chhattisgarh through P.S: Taregaonjungal, Distt. Kabirdham Civil And Rev. Distt. Kabirdham, Chhattisgarh

---- Respondent

For Appellant	:	Mr. Ajay Kumar Mishra, Advocate.
For Respondent/State	:	Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

26.11.2020

1. This appeal has been preferred against the judgment dated 02.05.2013 passed in Sessions Case No.08/2013 by the Additional Sessions Judge, Kabirdham (Kawardha), Chhattisgarh, wherein, the Appellant has been convicted under Section 450 of IPC, 376 of IPC and sentenced to undergo RI for 10 years, sentenced to undergo RI for 10 years, respectively with default stipulations.
2. A report received from Superintendent of Jail, Durg dated 04.07.2020 would mention that Appellant has been released from jail on 01.04.2020 after completing the entire jail sentence imposed upon him by the concerned Trial Court.
3. In this case, prosecutrix is physically & mentally handicapped girl. According to the case of prosecution, on 21.12.2012, between 10:00

A.M. to 11:00 A.M, the present Appellant entered the house of the prosecutrix and committed sexual intercourse with her. This incident was witnessed by the mother of the prosecutrix namely Janani Bai (PW-01). The matter was reported by her vide Exhibit-P/4. The prosecutrix was medically examined by Dr. Smt. Heena H. Ahmed. She was also medically examined by Dr. G.K. Suryawanshi, Radiologist (PW-04). His report is Exhibit P/8-A. Statements of the witnesses were recorded under Section 161 of Cr.P.C. After completion of investigation, charge-sheet was filed by the police. To robe the Appellant in the crime-in-question prosecution examined as many as total 12 witnesses. In the statement of Appellant recorded under Section 313 of Cr.P.C, Appellant pleaded his innocence and false implication in the matter. After completion of trial, Trial Court convicted and sentenced the Appellant as mentioned in Para 01 of this judgment. Hence this appeal.

4. Learned counsel appearing on behalf of the Appellant submits that the Appellant is wrongly convicted without there being any sufficient evidence available on record. The prosecutrix in this case is not examined before the Trial Court, inspite of this fact, the Trial Court has convicted the Appellant, therefore, conviction of the Appellant is not sustainable.
5. On the contrary, learned State Counsel opposed the appeal and supported the impugned judgment. He submits that there is no dispute on the point that at the time of incident the prosecutrix was physically and mentally handicapped. As stated by mother of the prosecutrix in her cross-examination, this incident was witnessed by her, therefore,

on the basis of her statement, the Trial Court has rightly convicted the Appellant.

6. I have heard learned counsel appearing on behalf of the parties and perused the record minutely.
7. Considering the above facts and circumstances of the case, on perusal of the record and depositions, it appears that there is no dispute on point that at the time of incident, the prosecutrix in this case was mentally and physically handicapped, that is why she is not examined by the Trial Court. During trial, PW-01, mother of the prosecutrix categorically stated that when she reached the house, at that time, she saw that the Appellant was committing sexual intercourse with her daughter. Though, there are some contradictions and omissions occurred on the statements of the witnesses, but they are not material, therefore, in my considered opinion, the learned Trial Court has rightly convicted the Appellant which does not require any interference.
8. Consequently, I do not find any merit in this appeal. The same is dismissed.

Sd/-

**(Arvind Singh Chandel)
Judge**