

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1067 of 2016

Vishwanath Sahu @ Vishu Bangali S/o Siddheshwar Sahu Aged About 24 Years R/o Ramchandrapur, P.S. Kostal, District East Midnapur, West Bengal.

---- Appellant

Versus

State Of Chhattisgarh Through Police Station Champa, District Janjgir Champa, Chhattisgarh.

---- Respondent

For Appellant	:	Dr. Kumaresh Tiwari, Advocate.
For Respondent/State	:	Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

20/07/2020

1. The matter is heard through video conferencing.
2. By the impugned judgment dated 29/04/2016 passed in Special Session Case No. 73/2015 passed by the learned Additional Session's Judge (FTC), Janjgir, District Janjgir-Champa (C.G.), the Appellant has been convicted for the offence punishable under Sections 363 & 366 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 5 years for each Section and to pay fine of Rs. 5,000/- for each Section, with default stipulations. Both the sentences to run concurrently.
3. As per prosecution story, at the time of incident prosecutrix was

a minor girl and she was studying in 1st year of BSC. On 05.10.2015, she went for college and did not return. On the date of incident, the Appellant was also not found anywhere, therefore, an FIR has been lodged by father of the prosecutrix against the Appellant. During course of investigation, the prosecutrix was recovered and her statement was recorded. After completion of investigation, charge-sheet has been filed. Trial Court has framed the charges under Sections 363 & 366 of the Indian Penal Code. To prove the guilt of the Appellant, the prosecution has examined as many as 9 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 his innocence and false implication in the matter.

4. After trial, the trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
5. A certificate of incarceration sent by the office of Jail Superintendent, Central Jail, Bilaspur District Bilaspur (C.G.) would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released on 23.10.2019.
6. I have heard Learned Counsel appearing for the parties and perused the record to assess the correctness of the impugned judgment of conviction.

7. From the evidence adduced by the prosecution, it is well established that at the relevant time, the prosecutrix was below 18 years of age. From the perusal of statements of the prosecutrix and other witnesses, it is well established that due to previous love relationship, the Appellant taken the prosecutrix with him and visited several places. They both have also stayed in Calcutta. It seems that prosecutrix was a consenting party in the alleged act but, she was aged below 18 years.
8. On minute examination of above evidence available on record, in my considered opinion, I have found that 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