

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1545 of 2015

- Ram Bihari alias Lolo S/o Shivbhajan, aged about 25 years, caste – Gond, R/o village Jagatpur, P.S. Charcha, District Koriya, (C.G.)

-----Appellant

Versus

- State of Chhattisgarh, Through P.S. Charcha, District – Koriya, (C.G.).

-----Respondent

For Appellant	:	Shri F.S. Khare, Advocate.
For Respondent	:	Shri Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

03/07/2020

1. By the impugned judgment dated 01.10.2015, passed in S.T. No. 15/2014 by the Additional Sessions Judge, (FTC), Baikunthpur, District – Koriya, (C.G.) appellant has been convicted under Section 376 of IPC and sentenced to undergo R.I. for seven years and fine of Rs. 5,000/- and under Section 506 Part – II of IPC and sentenced to undergo R.I. for one year with default stipulations. (Both sentences to run concurrently).
2. According to case of the prosecution, on 10.10.2013 when prosecutrix was taking bath in the village pond, at that time appellant came there and committed forcible sexual intercourse with her and fled away from

the spot. After the said alleged incident, prosecutrix narrated the incident to her brother. Thereafter, matter was reported in the police station. Thereafter, statement of prosecutrix and other witnesses were recorded under Section 161 of Cr.P.C. After completion of investigation, a charge-sheet was filed. Trial Court framed the charges. To prove the guilt of the accused/appellant, the prosecution examined as many as eight witnesses. One defence witness has been examined. Statement of the appellant under Section 313 of Cr.P.C. were recorded, where accused/appellant has pleaded his innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the appellant as mentioned in paragraph 1 of this judgment. Hence, this appeal.
4. A certificate of incarceration sent by Jail Superintendent, Central Jail, Ambikapur, (C.G.) dated 15.06.2020 would mention that the appellant has undergone the entire jail sentence imposed upon him by the trial Court and already released on 23.04.2019.
5. Learned Counsel appearing on behalf of the appellant submitted that without there being any clinching evidence on record against the appellant, the trial Court has wrongly convicted him. There are material contradictions and omissions occurred in the statements of prosecutrix and other witnesses. The findings of the trial Court is contrary to the evidence available on record. Therefore, judgment of the trial Court is not sustainable.
6. Learned Counsel appearing for the State/Respondent supported the impugned judgment of conviction and sentence.
7. I have heard learned Counsel appearing for the parties and perused

the record with due care. I have perused the statements of prosecution witnesses. Prosecutrix (PW-4) in her Court statement has supported the entire case of the prosecution. Though there are some contradictions and omissions occurred in the statements of the prosecutrix (PW-4) but they are not material. From the medical report i.e. Ex.P-2 of the prosecutrix, it is well-established that she sustained injuries on her body parts. Immediately after the alleged incident, prosecutrix informed about the incident to her brother Basant Singh (PW-1) who has also supported the statement of prosecutrix. There is nothing on record on the basis of which it can be said that there was any previous enmity between prosecutrix and appellant. Therefore, prosecutrix has falsely implicated the appellant in the present case is not admissible.

8. On minute examination of the evidence, it is clear that there is sufficient evidence available on record against the appellant. On the basis of the said, it is well-established that appellant had committed forcible sexual intercourse with the prosecutrix. Thus, 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