

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 3142 of 1999**

Raj Kumar Panika S/o Samalram, aged about 19 years, Occupation Agriculturist
R/o Kailashpur, District Surguja (M.P.) (Now C.G.)

---- Appellant

Versus

State of Madhya Pradesh through Police Station Azak Distt. Surguja (M.P.)
(Now C.G.).

---- Respondent

For Appellant	:	Ms. Neelam Jaiswani, Advocate on behalf of Mr. Dr. Shailesh Ahuja, Advocate
For Respondent	:	Mr. Sushil Sahu, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

12/02/2021

1. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 26/10/1999 passed in Special Case No. 83/1999 by the Special Judge, Schedule Caste/Schedule Tribes (Prevention of Atrocities) Act, Surguja, whereby the Appellant has been convicted under Section 366 of the IPC and Section 3 (1) (xi) of the Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989 (henceforth 'the Act') and sentenced to undergo RI for 2 years and RI for 2 years, respectively.
2. According to the case of the prosecution, on 09/02/2011 at about 8:00 pm, when the Prosecutrix (PW1) and her sister Rajkumari (PW2) had gone to attend the call of nature, at that time the appellant and other

co-accused persons abducted both of them and kept some time in a house. Thereafter, relatives of the victim girls took them back and the matter was reported vide Ex.P-1. Statement of witnesses and the victim girls were recorded under Section 161 of the Cr.P.C. After completion of investigation, a charge-sheet was filed. Trial Court framed the charges. As Many as 7 prosecution witnesses were examined. Statement of the appellant was recorded under Section 313 of the Cr.P.C, wherein he has pleaded his innocence and false implication in the matter. Two defence witnesses have been examined.

3. After trial, the trial Court has convicted and sentenced the appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submits that the trial court has wrongly convicted the appellant without there being any clinching and sufficient evidence available on record. He further submits that there are material contradictions and omissions occurred in the statements of witnesses, but the trial Court has ignored them, therefore, the conviction of the appellant is not sustainable.
5. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely as well as the statement of the witnesses.
7. There is no dispute on the point that the victim girls were the members of schedule caste. According to their statements, on the date of incident at about 8:00 pm, when they had gone to attend the call of

nature, the appellant and his brother caught hold of them and taken to their house. There, the appellant applied vermilion on the forehead of the victim girl. Both the girls have remained firm during their cross-examinations. From the statement of other witnesses, it is also well established that both the victim girls were recovered from the house of the appellant and immediately after the incident, the matter was reported.

8. On minute examination of the above evidence, it is clear that both Kailashi Bai (PW1) and Rajkumari Bai (PW2) have supported the entire case of the prosecution and they remained firm during their cross-examination. Even, immediately after the incident the matter was reported. Thus, from the evidence adduced by the prosecution it is well established that the appellant and his brother (died) had abducted the victim girls, therefore, the conviction of the appellant under Section 366 of the IPC is in accordance with the evidence available on record.
9. From perusal of the statements of the victim girls, it only establishes that the appellant had abducted the victim girls and took them to their house, and the said act was done not to dishonor or try to outrage their modesty. Mere abduction of the victim girl does not establish that the act was done with intention to dishonor the victim girls or to outrage their modesty. Thus, the conviction of the appellant under Section 3 (1) (xi) of the Act is not sustainable.
10. Consequently, the appeal is partly allowed. The appellant is acquitted from the charge framed under Section 3 (1) (xi) of the Act, however,

the conviction of the appellant under Section 366 of the IPC is affirmed.

11. The appellant has already undergone about 29 days during trial, he is facing the *lis* since 22 years, there is no previous antecedent against him, therefore, I am of the view that while affirming the conviction of the appellant under Section 366 of the IPC, he is sentenced to the period already undergone by him. Ordered accordingly.
12. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge