

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 51 of 2016

- Dhansay @ Bunu, S/o Santram Kenwat, Aged about 27 Years, R/o Village Turkindih, Chouki Giroudpuri, P.S. Bilaigarh, District Revenue-Civil Baloda Bazar Bhatapara, Chhattisgarh.

---- Appellant

Versus

- State of Chhattisgarh, Through District Magistrate, Balod Bazar, District Baloda Bazar Bhatapara, Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Yogesh Pandey, Advocate.
For Respondent/State	:	Mr. H.S. Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

29/06/2021

1. By the impugned judgment dated 24.11.2015 passed in Sessions Trial No. 67/2013 by the learned Second Additional Sessions Judge, Baloda Bazar (C.G.), the Appellant has been convicted for the offence punishable under Sections 376 and 506 Part-II of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 7 years, and to pay fine of Rs. 1,000/- and rigorous imprisonment for one year and to pay fine of Rs. 200/- respectively, with default stipulations.
2. According to the case of prosecution, prosecutrix (PW-6) is a blind lady. On the date of incident, when she was in her house, the Appellant entered there and committed forcible sexual intercourse

with her, due to which she got pregnant. Since, the Appellant has threatened her for life, therefore, she did not disclose the incident to anyone and when her pregnancy was visible then she revealed about the incident to her father. Thereafter, the village meeting was conducted wherein the entire incident was disclosed. Later on, the matter was reported in concerned Police Station by father of the prosecutrix. Statement of the prosecutrix and other witnesses were recorded under Section 161 of Cr.P.C. After completion of investigation, charge-sheet has been filed. Trial Court has framed the charges. To prove the guilt of the Appellant, the prosecution has examined as many as 9 witnesses. No defense witness has been examined by the Appellant. 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.

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, Raipur District Raipur (C.G.) would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released from jail on 02.03.2019.
5. Learned counsel for the Appellant submits that without there being any clinching and reliable evidence available on record, the Trial Court has convicted the Appellant. There are material contradictions and omissions occurred in the statements of the prosecutrix and other witnesses and by ignoring these facts, the Trial Court has wrongly convicted the Appellant, therefore, conviction of the Appellant is not

sustainable.

6. I have heard Learned Counsel appearing for the parties and perused the record to assess the correctness of the impugned judgment of conviction. I have also gone through the statements of the witnesses.
7. Prosecutrix (PW-6) in her Court statement supported the entire case of prosecution and deposed that on the date of incident at night when she was alone in her house at that time the Appellant entered in her house and committed forcible sexual intercourse with her. Since, the Appellant has threatened her for life, therefore, she did not disclose the incident to anyone and when her pregnancy was visible then she revealed about the incident to her father. During cross-examination, this witness remain firmed. Father of the prosecutrix and other witnesses of the case who were present in the village meeting, also supported the case of prosecution. However, there are some contradictions and omissions occurred in their statements, but they are not material.
8. Looking to the entire evidence adduced by the prosecution, the Trial Court has rightly convicted the Appellant. The finding of the Trial Court is accordance with the evidence available on record.
9. I do not found any merit in this Appeal. Accordingly, the same is liable to be and is hereby dismissed.

Sd/-
(Arvind Singh Chandel)
Judge