

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1190 of 2015

- Ishawar Satnami, S/o Sukalu Satnami, Aged about 36 years, R/o Village - Girdharikapa, Chowki, Damapur, Police Station Kunda, District- Kabirdham Kawardha (C.G.).

---- Appellant

Versus

- State of Chhattisgarh, Through The Police Station- Kunda, District- Kabirdham (C.G.).

---- Respondent

For Appellant	:	Mr. Yogendra Chaturvedi, Advocate.
For Respondent/State	:	Mr. Akhtar Hussain, P.L.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

05/07/2021

1. By the impugned judgment dated 03.09.2015 passed in Sessions Case No. 20/2015 by the learned Upper Sessions Judge (F.T.C.), Kabirdham (C.G.), the Appellant has been convicted for the offence punishable under Sections 376(ठ) and 323 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 10 years, and to pay fine of Rs. 2,000/- and rigorous imprisonment for 01 year, and to pay fine of Rs. 500/- respectively, with default stipulations.
2. According to the case of prosecution, father of the prosecutrix namely Pekhan Lal Kurre (PW-1) lodged a written report vide (Ex.P/1) in

Police Station Kunda, District Kabirdham alleging therein that his daughter aged about 17 years, who is a handicapped girl and suffering from Epilepsia. On 26.01.2015 at about 12:30 PM when her daughter gone towards a field at village- Girdharikapa at that time the Appellant reached there and took her forcibly to other place by dragging her, committed *marpeet* with her and thereafter committed forcible sexual intercourse with her. Thereafter, the prosecutrix informed her parents about the incident, on the basis of said report, offence has been registered against the Appellant. Later on statements of the prosecutrix and witnesses 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 11 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. Learned counsel for the Appellant submits that the Appellant has wrongly convicted by the Trial Court without there being any sufficient and reliable evidence available on record. There are material contradiction and omission occurred in the statement of the prosecutrix and other witnesses and by ignoring these facts, the trial Court has wrongly convicted the Appellant. Thus, conviction of the Appellant is not sustainable.

5. On the contrary, learned State Counsel opposed the appeal and supported the impugned judgment.
6. I have heard learned counsel appearing on behalf of the parties and perused the record minutely. I have also gone through the statements of the witnesses.
7. In her Court statement, prosecutrix (PW-2) deposed that at the time of incident when she was in a field at that time the Appellant reached there, caught hold her hands and removed her panty when she tried to scream, the Appellant thrust a piece of cotton in her mouth. According to this witness, after the incident she returned to her home and narrated the entire incident to her parents. After declaring hostile, on being asked by the Trial Court, the prosecutrix deposed that the Appellant has not inserted his private part in her private part. On being asked by the prosecution, this witness deposed that the Appellant has inserted his private part in her private part. Later on, on being asked by the Trial Court that which of the said two statements was correct then she replied that the Appellant has inserted his private part in her private part. The said statement has not been rebutted during her cross-examination. Father of the prosecutrix namely Pekhan Lal Kurre (PW-1) deposed that immediately after the incident, the prosecutrix returned to house and narrated that the Appellant has committed forcible sexual intercourse with her. The above statement of this witness has also not been duly rebutted during his cross-examination. Other witnesses i.e. Kaliram (PW-4) and Baisakhu (PW-5) also deposed that immediately after the incident, the prosecutrix told the incident to them. Medical report of the prosecutrix also shows

abrasions on her chest and thigh.

8. Looking to the entire case of prosecution there is sufficient evidence available on record against the Appellant and the crime has duly proved against him. Thus, the 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