

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 661 of 2009

Vipin Khes S/o Vijay Khes, aged about 24 years, Occupation- Labourer, R/o Village Sarabkombo, Tahsil Bageecha, District Jashpur (C.G.).

---- Appellant

Versus

State of Chhattisgarh through Police Station House Officer, Police Station Bageecha, District Jashpur (C.G.)

---- Respondent

For Appellant	:	None
For Respondent	:	Mr. Sushil Sahu, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel
Judgment on Board

20/01/2021

1. By the impugned judgment dated 06/08/2009 passed in Sessions Trial Nos. 99/2007 and 1007/2007 by the Sessions Judge, Jashpur (C.G.), the Appellant has been convicted under Sections 376 (1), 366, 342 & 323 (3 times) of the IPC and sentenced to undergo RI for 7 years with fine Rs. 100/-, RI for 5 years with fine of Rs. 100/-, RI for 6 months and RI for 6 months, respectively with default stipulations.
2. In this case the age of the Prosecutrix was below 18 years at the time of incident. According to the case of the prosecution, on 20/06/2006 at about 8:00 pm, when the Prosecutrix was coming along with her mother Suniyaro from the house of Sudharsha, the Appellant was sitting in hiding position in a field and suddenly he assaulted the mother of the Prosecutrix and holding the Prosecutrix, he headed towards the forest. When the father of the Prosecutrix came listening

the alarm of the Prosecutrix, the appellant also assaulted him and took the Prosecutrix towards the forest and committed rape with her. The matter was reported by the mother of the Prosecutrix. A separate report was also lodged by the Prosecutrix herself and on the basis of two reports, two different crime numbers were registered. After completion of investigation, two charge-sheets were filed. Since, the incident was only one, therefore, both the charge-sheets were merged into one trial. Trial Court framed the charges. To prove the guilt of the Appellant, the prosecution has examined as many as 12 witnesses. Statement of the Appellant under Section 313 of the Cr.P.C has been recorded, wherein he has pleaded his innocence and false implication in the matter. No defence witness has 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. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Ambikapur would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released on 17/11/2012.
5. Since no one appears on behalf of the Appellant, therefore, I am going to decide this appeal on its merit.
6. I have heard Learned Counsel appearing for the State and perused the record of the trial Court as also the statements of the witnesses minutely.
7. In her court statement, the Prosecutrix has supported the entire case of the prosecution and deposed according to the case of the prosecution. Her statement is duly corroborated by her mother

Suniyaro Bai (PW2) and Kundu Ram (PW3). Both these witnesses have categorically deposed that the appellant had assaulted them and in front of them, he took the Prosecutrix towards the forest. The above statement of these witnesses and the statement of the Prosecutrix have not been rebutted. These witnesses have remained firm during their cross-examination. Moreover, from the medical reports of the Prosecutrix and her mother and father, it is established that they have sustained injuries over their bodies. Thus, medical report also supports the case of the prosecution.

8. Looking to the above evidence adduced by the prosecution, in my considered opinion, the trial Court has rightly convicted the appellant.
9. Consequently, I do not find any merit in this appeal. The same is dismissed.

Sd/-
(Arvind Singh Chandel)
Judge