

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 887 of 2011

Santosh Sahu, S/o Devnandan Sahu, aged about 29 Years, Occupation Driver, R/o Reevagahan, Police Station Lalbagh, Rajnandgaon, Chhattisgarh.

---- Appellant

Versus

State Of Chhattisgarh Through Police Station Lalbagh, District Rajnandgaon Chhattisgarh.

---- Respondent

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

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

05/01/2021

1. By the impugned judgment dated 07/09/2011 passed in Sessions Trial No. 55/2010 by the learned 1st Additional Sessions Judge Rajnandgaon, District Rajnandgaon (C.G.), the Appellant has been convicted for the offence punishable under Section 376 read with Section 511 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 5 years and to pay fine of Rs. 1,000/-, with default stipulation.
2. In this case, the prosecutrix (PW-1) is dumb since her birth. According to prosecution story, on 24.04.2010 at about 9 AM, when Dashodiya Bai was returning from pond after taking bath and when she reached near

the Kothar of Jagatram Dewangan then she heard some annoying sound and when she gone through it, she saw that the Appellant was doing forcible sexual intercourse with the prosecutrix, on seeing them, Dashodiya Bai called the villagers and thereafter the matter was reported by Dashodiya Bai (Ex. P.4). Statements of the witnesses have been recored under Section 161 of Cr.P.C. After completion of investigation, charge-sheet has been filed. Trial Court has framed the charges against the Appellant. To prove the guilt of the Appellant, the prosecution has examined as many as 10 witnesses. 01 defence witness has been examined. 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 for the offence punishable under Section 376 read with Section 511 of the IPC and sentenced him as mentioned in paragraph one of this judgment. Hence, this appeal.
4. A certificate of incarceration sent by Jail Superintendent, Central Jail, Durg (C.G.) would mention that the Appellant has undergone the entire jail sentence imposed upon him by the Trial Court and already released on 15.09.2014.
5. Learned Counsel for the Appellant submits that the learned Trial Court has convicted the Appellant without there being any sufficient evidence available on record against him. There are material contradiction and omissions occurred in the statements of complainant and other witnesses, therefore, statements of the complainant and other prosecution witnesses are not reliable.

6. Learned counsel appearing on behalf of the State opposes the same and supported the impugned judgment.
7. I have heard learned counsel for the parties and perused the record minutely.
8. I've perused the statement of Prosecutrix (PW-1), Dashodiya Bai (PW-5), Girdhari Lal (04), Dr. Sajida Alam and other witnesses. In Court statement of the prosecutrix, she deposed according to the case of prosecution. She remained firm during her cross-examination. Her statement was duly corroborated by eye-witness Dashodiya Bai (PW-5) and this witness also remained firm during her cross-examination though there are some contradictions and omissions occurred in her statement but that is not material evidence in support of the Appellant.
9. From the above evidence available on record and the evidence adduced by the prosecution, the offence is duly proved against the Appellant. Thus, the learned trial Court has rightly convicted the Appellant.
10. Consequently, the appeal has no merit and the same is liable to be and is hereby dismissed.
11. Records of the Court below be sent back alongwith the copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge