

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Proceedings through Video Conferencing****CRIMINAL REVISION No. 91/2019**

Anil Khunte, son of Late Dhvajaram Khunte, aged about 21 years,
R/o. Hardi Chowk, Bhatgaon, PS Bilaigarh, Distt. Balodabazar
Bhatapara (CG)

----Applicant**Versus**

State of Chhattisgarh, through the Police Station Bilaigarh, Distt.
Balodabazar Bhatapara (CG)

----Non-applicant

For Applicant : Ms. Supriya Upasne, Adv.
For respondent/State : Mr. Raghvendra Verma, Govt. Adv.

Hon'ble Shri Justice N.K. Chandravanshi**Order on Board****9-7-2021**

1. This criminal revision has been preferred by the applicant, being aggrieved by the order of framing of charge against the applicant under Sections 363, 363/34, 366, 366/34, 376, 376(D) of the Indian Penal Code (in short 'I.P.C.'), Section 4, 6, 17 and 18 of the Protection of Children from Sexual Offences Act, 2012 (in short 'POCSO Act') by learned 1st Addl. Sessions Judge (FTC), Balodabazar (CG) vide order dated 6-10-2018.

2. Learned counsel for the applicant submits that on 16-5-2017, the complainant / prosecutrix lodged complaint that on 7-5-2017 when the prosecution was at her home, the applicant and another co-accused took her forcibly on a 4 wheeler to the house of applicant, there, they administered her some tablet, as a result of which she became unconscious, then they committed rape with her one by one. She had further stated in that complaint that on 13-5-2017 again, the applicant and another co-accused took her forcibly to the house of the applicant and again committed rape with her one

by one forcibly. Learned counsel further submits that later, on being inquired by the police, the complainant/prosecutrix herself stated that applicant and co-accused had not committed any wrongful act with her, but since her grand father wanted to take revenge from them, she had filed false report and she had signed in that complaint on the saying of her grand father and uncle. On the basis of the statement of the prosecutrix, the Station House Officer, Police Station Bilaigarh sent a report dated 30-5-2017 (Annexure P-4) to the Police Superintendent, Distt. Balodabazar-Bhatapara that on inquiry, complaint was found false. But on 27-7-2017, the complainant has again filed complaint against applicant and co-accused on the basis of same facts that they had kidnapped her and forcibly committed rape with her, on the basis of which, after investigation, police have filed charge sheet against the applicant and co-accused. The learned Court below without considering the previous statement of the complainant has framed charges, therefore, looking to the previous statement of the complainant, order of framing the charges is erroneous and not sustainable.

3. Per contra, learned counsel appearing for the State opposes the submission so made and submits that learned trial Court has not committed any error in framing the charges against the applicant because it is well supported by the material filed with the charge sheet. He further submits that the complainant/prosecutrix is minor, if she has stated different fact in earlier statement which falsifies her statement taken in the present case, then veracity of statements can be tested only after evidence in the Court and before that, it cannot be said that the written compliant filed by her

and the statement given by her under section 161 of the Cr.P.C. are false and baseless.

4. I have heard learned counsel for both the parties and perused the materials available on record.

5. As per case of the prosecution, the prosecutrix is minor. Earlier she had given complaint regarding her kidnapping and forcible commission of rape by the applicant and co-accused. On the basis of her subsequent written complaint, F.I.R. has been registered at Police Station Bilaigarh, Distt. Balodabazar-Bhatapara. Complainant/ prosecutrix has also narrated the facts regarding her kidnapping and rape by the applicant and co-accused to other witnesses who are of-course her relatives, they have supported her statement. If complainant/ prosecutrix had stated in her previous statement that such act had not been committed by the applicant and another co-accused and she has filed false complaint at the instance of her grand father or uncle, then which one of her statements is true can be tested only after her examination in the Court. Before that, it cannot be said that her previous statement is true and subsequent statement is false.

6. It is well settled proposition of law that at the stage of framing of charge, even a very strong suspicion founded upon the material present in the charge sheet would be sufficient ground for framing of charge. In this case, the prosecutrix has stated in her written complaint and her statement under Section 161 of the Cr.P.C. that she has been kidnapped and rapped by the applicant and co-accused which is supported by other witnesses. Therefore, there

are sufficient grounds to assume prima facie case against the applicant and co-accused.

7. In view of above discussion, I am of the view that there is prima facie case present for framing of charges as have been framed by learned trial Court against the applicant. I do not find any substance in this revision petition which is liable to be dismissed.

8. Accordingly, the revision petition is dismissed.

Sd/-
N.K. Chandravanshi
Judge