

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 253 of 2018

- Shivbarat S/o Heerachand Aged About 23 Years R/o Karouti (B), Out Post Chendra, Police Station Jhilmili, District Surajpur Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Jhilmili, District Surajpur Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Anil Gulati, Advocate.
For Respondent/State	:	Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

15/06/2021

1. By the impugned judgment dated 23/12/2017 passed in S.T. No. 69/2016 by the learned Additional Sessions Judge (FTC), Surajpur, District Surajpur (C.G.), the Appellant has been convicted for the offence punishable under Section 363 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 5 years and to pay fine of Rs. 3,000/-, under Section 354 of the Indian Penal Code, the Appellant has been convicted, but sentenced as per the provisions of Section 42 of the POCSO Act and under Section 10 of the POCSO Act, 2012 and sentenced to undergo rigorous imprisonment for 5 years and to pay fine of Rs. 3,000/- respectively, with default stipulations.
2. According to the case of prosecution, on 11.05.2016, mother of the

prosecutrix namely Rambai (PW-3) lodged a report in concerned Police Station alleging therein that on 08.05.2016, her daughter went to the house of Ramcharan Kanwar to watch television, at around 9:00 PM, Suraj (PW-9) came to the house of the prosecutrix and informed that the Appellant taken the prosecutrix towards Mahua tree. Thereafter, family members of the prosecutrix started searching her, they found her but at that time, the prosecutrix did not reveal anything. On the next day, the prosecutrix disclosed the entire incident to her family members. On the basis of said report, FIR has been registered against the Appellant. Later on 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 and the 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, Ambikapur Surguja (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 03.03.2021.
5. Learned Counsel appearing for the Appellant would submit that without there being any clinching and reliable evidence available on record the Trial Court has convicted the Appellant. He further submits that there

are material contradiction and omissions occurred in the statement of the prosecutrix and other witnesses and by ignoring these facts the Trial Court has wrongly convicted the Appellant.

6. Per contra, learned Counsel appearing for the State supported the impugned judgment and submits that the sentence awarded by the Trial Court is just and proper and requires no interference.
7. I have heard Learned Counsel appearing for the parties and perused the record to assess the correctness of the impugned judgment of conviction.
8. With regard to the age of the victim girl, documentary and oral submission made by the prosecution. At the time of alleged incident, the victim girl was aged about 8 years. With regard to the incident also, the victim girl supported the entire case of prosecution. Her statement is duly corroborated by Rambai (PW-3) and Suraj (PW-9) who witnessed the incident. Statements of above witnesses have not been duly rebutted during their cross-examination. They remain firmed during their cross-examination.
9. From the evidence available on record and 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.
10. Consequently, the appeal has no merit and the same is liable to be and is hereby dismissed.

Sd/-
(Arvind Singh Chandel)
Judge