

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 604 of 2021

- Mangal Bhardwaj, S/o Mehattar Bhardwaj, Aged About 28 Years R/o Village Basbinouri, Police Station Palari, District Balodabazar-Bhatapara, Chhattisgarh.

---- Appellant

Versus

- State of Chhattisgarh Through Police Station Palari, District Balodabazar-Bhatapara, Chhattisgarh.

---- Respondent

For Appellant	:	Smt. Savita Tiwari, Advocate.
For State/Respondent	:	Shri Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

09/08/2021

1. This appeal has been preferred against the impugned judgment dated 25/01/2021 passed in Special Criminal Case (POCSO) No.19/2018 by the Special Judge (POCSO), Balodabazaar, (C.G.) wherein appellant has been convicted and sentenced as under :

<u>Conviction</u>	<u>Sentence</u>
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U/s 8 of POCSO Act,	R.I. for three years and fine amount of Rs.500/- with default stipulations
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2. In the present case, at the date of incident, age of the prosecutrix/victim was about 11 years. On 21.02.2018 at about 11.40 AM, father of prosecutrix namely Sugriv Kannouje (PW-4) lodged a written report stating therein that today at about 9:00 AM when his daughter/victim came into the field alone, then on the way, the appellant caught hold her hand and touched her private parts and also pressed her breast. At that time when one Budharu Satnami reached at the spot, appellant fled away from there. On the basis of the said report, offence has been registered. Statement of the prosecutrix/victim girl and other witnesses were recorded under Section 161 of Cr.P.C. After completion of the investigation, a charge-sheet was filed. To prove the guilt of the accused/appellant, prosecution has examined as many as 11 witnesses. No defence witness has been examined. Statement of appellant under Section 313 of the Cr.P.C. was recorded, wherein accused/appellant has pleaded innocence and false implication in the matter.
3. After completion of trial, the trial Court has convicted and sentenced the appellant as mentioned in paragraph 1 of this judgment. Hence, this appeal.
4. Learned Counsel appearing on behalf of the appellant submits that appellant is innocent and is falsely implicated in the present case. She further submits that trial Court has wrongly convicted the appellant without there being sufficient and clinching evidence against him.

There are material contradictions and omissions occurred in the statement of the prosecutrix/victim girl and other witnesses. Statement of the prosecutrix/victim is suspicious. It appears that due to some previous dispute, appellant has been falsely implicated in the case. Therefore, conviction of the appellant is not sustainable.

5. Per contra, learned Counsel appearing for the State supports the impugned judgment and submits that sentence awarded by the trial Court is just and proper and requires no interference.
6. I have heard learned Counsel appearing for the parties, perused the record, statement of witnesses and annexed documents minutely.
7. There is no dispute on the point that at the time of alleged incident, age of prosecutrix/victim (PW-3) girl was about 11 years. With regard to the alleged incident, prosecutrix/victim (PW-3) in her Court statement has supported the entire case of the prosecution and deposed accordingly. Particularly, in question No. 8 and 25, prosecutrix has categorically answered/deposed that appellant had caught hold her and pressed her breast and on this point she has remained firm during her cross-examination. Statement of the prosecutrix was duly corroborated by the sole eye-witness of the case namely Budharu (PW-1). He also remained firm during his cross-examination. There is nothing in their cross-examination, on the basis of which their statements can be disbelieved.
8. Looking to the evidence adduced by the prosecution and particularly after going through the statements of the prosecutrix (PW-3) and Budharu (PW-1), it is clear that there is sufficient evidence against the

appellant to hold him guilty. In my considered view, the trial Court has rightly convicted the appellant.

9. Consequently, the appeal has no merit and is, therefore, dismissed.

**Sd/-
(Arvind Singh Chandel)
Judge**