

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 181 of 2013

- Dashrath Sarthi, S/o Parau Sarthi, Aged About 23 Years, R/o Village Ratanpur, P.S. Kapu, Tah. Dharmjaygarh, Distt. Raigarh, Chhattisgarh.

---- Appellant

Versus

- State of Chhattisgarh Through P.S. Kapu, Dharamjaygarh, Distt. Raigarh, Chhattisgarh.

---- Respondent

For Appellant	:	Shri Vineet Kr. Pandey, Advocate.
For State/Respondent	:	Shri H.S. Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

03/02/2021

1. This appeal has been preferred against the impugned judgment dated 15/01/2013 passed in S.T. No.106/2012 by the Sessions Judge, Raigarh, District – Raigarh, (C.G.) wherein appellant has been convicted and sentenced as under :

<u>Conviction</u>	<u>Sentence</u>
U/s 363 of the I.P.C.	R.I. for 1 year and fine of Rs.1,000/- with default stipulations.

U/s 366 (A) of the I.P.C.	R.I. for 3 years and fine of Rs.2,000/- with default stipulations.
U/s 376 of the I.P.C.	R.I. for 10 years and fine of Rs.5,000/- with default stipulations.
All sentences to run concurrently.	

2. In the present case, at the date of incident, age of the prosecutrix was about 13 years and she was studying in class 7. According to the case of the prosecution, on 16/5/2012, on pretext of marriage, appellant took the prosecutrix to his legal guradian house at village Sithra and there in the house of his grand mother, he continuously committed sexual intercourse with the prosecutrix. On 22/05/2012, prosecutrix was recovered from the possession of the appellant. Thereafter, prosecutrix lodged report (Ex.P-2), on the basis of which offence was registered against appellant. Statement of prosecutrix 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 10 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 his 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. A certificate of incarceration sent by the Jail Superintendent, Central

Jail, Bilaspur, (C.G.) would mention that appellant has been released from jail on 08/02/2020 after remission and completion of sentence imposed by the trial Court.

5. Learned Counsel appearing on behalf of the appellant submits that appellant is innocent and is falsely implicated in the present case. He 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 and other witnesses. Therefore, conviction of the appellant is not sustainable.
6. I have heard learned Counsel appearing for the parties, perused the record minutely.
7. Prosecutrix (PW-1) has deposed in her Court statement according to the case of prosecution. She has categorically stated that on the date of incident, when she was returning to her house, on the way, appellant met and took her towards the jungle on his motorcycle. There, firstly appellant committed forcible sexual intercourse with her. Thereafter, appellant took her to the house of his grandmother and there also he committed sexual intercourse with the prosecutrix for many days. The above statement of the prosecutrix is not duly rebutted during her cross-examination. She has remained firm on her above statement. From the other evidence adduced by the prosecution, it is well-established that prosecutrix was recovered from the possession of the appellant and immediately, thereafter, prosecutrix lodged the report in the police station. It is also well-established that at the time of incident, age of the prosecutrix was

about 12 years and 6 months.

8. On a minute examination of the evidence on record, 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**