

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1069 of 2015**

Jaduram S/o Kolaram, Caste- Muriya, aged about 22 years R/o Kurushpal,
Police Station Lohandiguda, District Bastar (C.G.).

----Appellant**Versus**

State of Chhattisgarh through Station House Officer, Police Station
Lohandiguda, District- Bastar (C.G.)

---- Respondent

For Appellant	:	Mr. Subhash Yadav, Advocate
For Respondent	:	Mr. Priyanshu Gupta, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel**Judgment on Board****02/03/2021**

1. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 23/06/2015 passed in Sessions Trial No. 14/2015 by the Additional Sessions Judge (FTC), Bastar at Jagdalpur (C.G.), whereby the Appellant has been convicted under Section 376 (2) (I) of the IPC and sentenced to undergo RI for 10 years with fine of Rs. 300/- with default stipulation.
2. In this case, the age of the Prosecutrix (PW5) was about 15 years at the relevant time. Her date of birth is 01/05/2000. According to the case of the prosecution, on 27/03/2015 at about 8:00 pm, mother of the Prosecutrix had gone to search her father along with her two children and the Prosecutrix was alone in her house. At that time, the appellant entered into the house and took the Prosecutrix to the backside of the house. There, he committed sexual intercourse with her. After returning mother of the Prosecutrix, she narrated entire incident to her. Thereafter,

the matter was reported. Statement of the Prosecutrix and other witnesses were recorded under Section 161 of the Cr.P.C. After completion of investigation, a charge-sheet was filed. Trial Court framed the charges. As many as 11 prosecution witnesses have 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. Two defence witnesses have been examined.

3. After trial, the trial Court has convicted and sentenced the Appellant as mentioned in paragraph one of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submits that the trial Court has wrongly convicted the appellant without there being sufficient and clinching evidence on record. He further submits that there are material contradictions and omissions occurred in the statements of the Prosecutrix and other witnesses which were ignored by the trial Court. He further submits that the material independent witnesses have not supported the case of the prosecution, therefore, he prays that the conviction of the appellant is liable to be set-aside.
5. 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.
6. I have heard learned Counsel appearing on behalf of the parties and perused the record as well as statement of the witnesses minutely.
7. Firstly, I am going to examine the age of the Prosecutrix.

8. In her Court statement, the Prosecutrix (PW5) has stated that her age is about 15 years. Her father, Tularam (PW4) has also deposed that the age of the Prosecutrix is about 15 years. The Prosecutrix in her court statement has categorically stated that at the relevant time she was studying in Class-9th and in between class-1 to class-8, she got never failed. The statement of the Prosecutrix and her father have not duly rebutted in their cross-examinations. Apart from that in the mark-sheet of Class-5th and Class- 8th which are Articles -A & B, respectively, the date of birth of the Prosecutrix has been mentioned as 01/05/2000. Moreover, at the time of admission of the Prosecutrix, a declaration form (Ex.P-4) was submitted by father of the Prosecutrix, wherein the date of birth of the Prosecutrix has been mentioned as 01/05/2000.
9. Looking to the documentary and oral evidence available on record, it is well established that at the time of incident the Prosecutrix was aged about 15 years.
10. With regard to the incident, the Prosecutrix (PW5) in her court statement has deposed that on the date of incident she was alone in her house. Her mother had gone to search her father along with her brothers. At that time, the appellant entered into her house and closed her mouth by a towel. Thereafter, he took her to the back side of the house and committed forcible sexual intercourse with her. Later on, he fled away from the spot. When her mother returned to the house, the Prosecutrix narrated the entire incident to her mother. Immediately after the incident, the matter was reported. On the point of forcible sexual intercourse committed by the appellant, the Prosecutrix has remained firm during her

cross-examination. There is nothing in her cross-examination on the basis of which her statement can be disbelieved. Immediately after the incident, the matter was reported by the father of the Prosecutrix.

11. Looking to the totality of the case and the evidence adduced by the prosecution, in my considered view, the offence is duly proved against the appellant, and the finding of the trial Court is in accordance with the evidence available on record.
12. Accordingly, the appeal is dismissed.

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