

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.199 of 2014

Tikaram Verma, son of Late Sonu Ram Verma, aged about 29 years, resident of Arjuni, Police Station Bhatapara Gramin, District Baloda Bazar, Bhatapara, Chhattisgarh

---- Appellant

versus

State of Chhattisgarh through Police Station Bhatapara Gramin, District Baloda Bazar, Bhatapara, Chhattisgarh

--- Respondent

For Appellant	:	Shri C.R. Sahu, Advocate
For Respondent	:	Shri H.S. Ahluwalia, Dy. Adv. General

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

1.2.2021

1. The instant appeal has been preferred against the judgment dated 12.2.2014 passed by the Additional Sessions Judge, Bhatapara, District Baloda Bazar in Sessions Trial No.30 of 2013, whereby the Appellant has been convicted and sentenced as under:

<u>Conviction</u>	<u>Sentence</u>
Under Section 367 of the Indian Penal Code	Rigorous Imprisonment for 10 years and fine of Rs.2,000/- with default stipulation

2. Prosecution case, in brief, is that PW1 is the victim girl. First Information Report (Ex.P2) was lodged on 26.7.2013. According to the prosecution story, on a day 5 years back since 26.7.2013, the victim girl had gone to work in an agricultural field. When she was

alone in the field, at that time, the Appellant came there and caught her hand and dragging her he took her to the road. Thereafter, he made her sit in a bus. He also gave her something to eat as a result of which she got unconscious. When she got conscious, she found herself in State of Rajasthan. The Appellant told her that he had took her there to sell her in a prostitution centre. It is the further case of the prosecution that the Appellant sold the victim girl to co-accused Banwari. After sometime, Alka alias Halke (PW2) came to the house of Banwari. The victim girl requested to Alka alias Halke (PW2) to take her away with him. Alka alias Halke (PW2) took her away with him. 2 months thereafter, Alka alias Halke (PW2) and the victim girl married to each other. 4 years thereafter, when she, along with her family, had gone to see a fair, Ranu Sahu, a resident of her Village Arjuni met her there. Ranu Sahu told the victim girl that the Appellant had sold her also at Rajasthan. Few days thereafter, Ranu Sahu went to Village Arjuni. There she told about the entire incident to Santan (PW3), father of the victim girl. Santan (PW3) went to Rajasthan and took back his daughter/the victim girl to his village and thereafter the matter was reported. Statements of the victim girl and other witnesses were recorded under Section 161 of the Code of Criminal Procedure. On completion of investigation, a charge-sheet was filed. Charges under Sections 363, 367 and 372 of the Indian Penal Code were framed against the Appellant by the Trial Court.

3. In support of its case, the prosecution examined as many as 5 witnesses. In examination under Section 313 of the Code of Criminal Procedure, the Appellant denied the guilt and pleaded

innocence. No witness has been examined in his defence.

4. On completion of the trial, vide the impugned judgment, the Trial Court convicted and sentenced the Appellant as mentioned in first paragraph of this judgment. Hence, this appeal.
5. Learned Counsel appearing for the Appellant submits that without there being clinching and sufficient evidence on record against the Appellant, the Trial Court has wrongly convicted him. The matter was reported after 5 years of the alleged incident. Prior to that, no report of missing of the victim girl was lodged. Thus, it appears that the victim girl herself had left her house at her own will. It is further submitted that at the time of alleged incident, age of the victim girl was above 18 years. Since she herself had left her house at her own will, the Trial Court has wrongly convicted the Appellant. It is further submitted that the entire statement of the victim girl is doubtful. Looking to the statement of victim girl, case of the prosecution is not proved beyond reasonable doubt. Thus, the conviction of the Appellant is not sustainable.
6. Learned Counsel appearing for the State opposes the above submission and supports the impugned judgment of conviction and sentence.
7. I have heard Learned Counsel appearing for the parties and perused the entire record with due care.
8. From the evidence adduced by the prosecution, it is well

established that at the time of incident, age of the victim girl was above 18 years and, therefore, finding of the Trial Court in this regard is in accordance with the evidence available on record. It is also not in dispute that the First Information Report was lodged after 5 years of the alleged incident and prior to that no report of missing of the victim girl was lodged.

9. In her Court statement, the victim girl (PW1) has deposed that on the date of incident, in the afternoon, she was working in an agricultural field. The Appellant came there and caught her. He made her eat something as a result of which she got unconscious. When she got conscious, she found herself in Karoli, State of Rajasthan. She has further deposed that the Appellant told her that he had taken her there to sell her in a prostitution centre. The Appellant left her at the house of co-accused Banwari. 2 hours thereafter, Alka alias Halke (PW2) came to the house of Banwari. She asked Alka alias Halke (PW2) to take her away with him. He took her away with him and thereafter they married to each other. She has further deposed that out of their wedlock two children born. She has further deposed that 4 years thereafter when she, along with her family members, had gone to see a fair, at that time, Ranu Sahu, a resident of her village met with her there. She told about the incident to Ranu Sahu. 1 year thereafter, father of this witness came to her and took her back with him. Thereafter, the matter was reported. In her cross-examination, she has deposed that the agricultural field from where she was taken away by the Appellant was situated adjacent to the agricultural field of her grandfather and family members of her grandfather were working in their said

agricultural field at the time when the Appellant was taking her away with him. She has further deposed that the Appellant had caught her forcefully in the agricultural field and he had forcefully made her eat something. She has further admitted the fact that after reaching in Rajasthan, she did not raise a voice against the Appellant. She has also deposed that at the house of co-accused Banwari, she did not tell anything to his wife. When this witness was further re-examined then she denied that the Appellant had taken her to the house of Banwari. According to this witness, she has no acquaintance with Banwari.

10. Alka alias Halke (PW2) has stated that he found the victim girl in the bus stand of Karoli, Rajasthan. There, she told him that she was brought there to sell for prostitution. Then this witness took her out of clutches of the persons who had brought her to Rajasthan and thereafter he married her. In his Court statement, this witness has refused to identify the Appellant.

11. On a minute examination of the statements of the above two witnesses, it is clear that the entire story narrated by these witnesses is doubtful because when the family members of the grandfather of the victim girl (PW1) were, at the time of incident, working in their agricultural field situated adjacent to the agricultural field from where the victim girl was taken away by the Appellant, it could not be possible for the Appellant to feed the victim girl something forcefully there, make her unconscious and take her away from there forcefully. Furthermore, when she was unconscious during the travel to Rajasthan, someone would have

noticed her condition of unconsciousness and raised a voice, but nothing so has happened in this case. Besides this, even after reaching at Rajasthan, she did not raise any alarm/voice against taking her to there forcefully by the Appellant nor did she make any complaint anywhere. Rather, she married to Alka alias Halke (PW2) and kept mum for about 4 years. During this long period of 4 years, she even did not try to contact her family members/parents at her village nor did her parents make any report against her missing. Furthermore, Alka alias Halke (PW2), who has stated that he had taken the victim girl out of the clutches of the persons who had brought her to Rajasthan, has refused to identify the Appellant in the Court. Looking to the statements of the witnesses, the entire prosecution story becomes doubtful. Therefore, the Appellant is entitled to get benefit of doubt.

12. Consequently, the appeal is allowed. The impugned judgment of conviction and sentence is set aside. The Appellant is acquitted of the charges framed against him. He is in jail since 28.7.2013. He be set at liberty forthwith.

Sd/-

(Arvind Singh Chandel)
Judge