

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1208 of 2019

- Shahbaz Khan S/o Shakir Khan aged about 21 Years R/o Govindpura, Post-Alampur, District- Patna, Bihar.

---- Appellant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station- Supela, District- Durg, Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Aditya Khare, Advocate.
For Respondent/State	:	Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

14/06/2021

1. By the impugned judgment dated 15/05/2019 passed in Special Criminal Case No. 1208/2019 by the learned Additional Sessions Judge (FTC), District Durg (C.G.), the Appellant has been convicted for the offence punishable under Section 4 of the POCSO Act and Sections 363 & 366 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 7 years and to pay fine of Rs. 500/-, rigorous imprisonment for 3 years and to pay fine of Rs. 500/- & rigorous imprisonment for 3 years and to pay fine of Rs. 500/- respectively, with default stipulations. All the sentences to be run concurrently.
2. In this case, at the relevant time age of the prosecutrix was 17 years.

According to the case of prosecution, father of the prosecutrix namely Rohit Rajput lodged a report against the Appellant in concerned Police Station alleging therein that the Appellant has abducted his minor daughter. On the basis of said report, offence has been registered against the Appellant. During course of investigation, the prosecutrix has been recovered and her statement under Section 161 of Cr.P.C. has been recorded. Later on statements of other witnesses have also been recorded under Section 161 of the Cr.P.C. After completion of investigation, charge-sheet has been filed. Trial Court has framed the charges. To prove the guilt of the Appellant, the prosecution has examined as many as 12 witnesses. No defense witness has 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.

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, Durg District Durg (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 26.11.2020.
5. Learned Counsel appearing for the Appellant would submit that without 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. I have also gone through the statements of the witnesses and the prosecutrix.
8. From perusal of statements of the witnesses and the prosecutrix, it is well established that at the time of alleged incident, the prosecutrix was aged below 18 years of age. From the statement of the prosecutrix, it is also established that the Appellant allured her and taken her with him and committed forcible sexual intercourse with her. The prosecutrix remain firm during her cross-examination. There is nothing on record on the basis of which her statement can be disbelieved.
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 learned 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