

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 738 of 2015

- Dube Badi S/o Makam Ram Badi Aged About 60 Years R/o Village Bathantoli, Kharpani, Thana Kansabel, Civil And Rev. Distt. Jashpur Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through Police Station Kansabel, District Jashpur Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Vikash Pandey, Advocate.
For Respondent/State	:	Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

11/06/2021

1. By the impugned judgment dated 19/03/2014 passed in S.T. No. 105/2012 by the learned Additional Sessions Judge (FTC), Jashpur, District Jashpur (C.G.), the Appellant has been convicted for the offence punishable under Section 376(1) of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 10 years, and to pay fine of Rs. 1000/-, with default stipulation.
2. According to the case of prosecution, the prosecutrix is polio disabled. On 02.07.2017 at about 7 PM, when the prosecutrix was going towards her uncle's house and when she reached near water boring, the Appellant came there and committed forcible sexual intercourse with her. Since, the prosecutrix is polio disabled,

therefore, she was unable to resist. After the incident, the prosecutrix narrated the entire story to her father Sawan Ram (PW-3) and brother Remiyas (PW-2) thereafter she lodged an FIR against the Appellant vide Ex. P-1. Later on statement of the prosecutrix and other witnesses were recorded under Section 161 of Cr.P.C. After completion of investigation, charge-sheet has been filed and the Trial Court has framed the charges. To prove the guilt of the Appellant, the prosecution has examined as many as 11 witnesses. No defense witness has been examined by the Appellant. 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, Ambikapur Surguja (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 17.04.2020.
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. I have heard Learned Counsel appearing for the State and perused the record to assess the correctness of the impugned judgment of

conviction.

7. In her Court statement the prosecutrix (PW-1) who is a polio disabled lady supported the entire case of prosecution and deposed according to the case of prosecution and she remains firmed during her cross-examination. There is nothing on record on the basis of which her statement can be disbelieved. Immediately after the incident, the prosecutrix narrated the entire story to her father Sawan Ram (PW-3) and brother Remiyas (PW-2). Both father and brother of the prosecutrix have also supported the statement of the prosecutrix. Medical evidence of the prosecutrix also supported the prosecution case.
8. 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 Trial Court has rightly convicted the Appellant.
9. Consequently, the appeal has no merit and the same is liable to be and is hereby dismissed.

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