

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 180 of 2016

- Aatmaram Sahu S/o Bodhi Ram Sahu Aged About 32 Years R/o Village Dhanaura, Police Station Nandghat, District Bemetara, Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Nandghat, District Bemetara, Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Neeraj Pradhan, Advocate.
For Respondent/State	:	Mr. Akash Pandey, P.L.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

14/07/2021

1. By the impugned judgment dated 27/07/2015 passed in S.T. No. 09/2015 by the learned Additional Sessions Judge Bemetara, District Bemetara (C.G.), the Appellant has been convicted for the offence punishable under Sections 376 and 506 Part-II of the IPC and sentenced to undergo rigorous imprisonment for 10 years and to pay fine of Rs. 2,000/-, rigorous imprisonment for 6 months, and under Section 6 of the POCSO Act and sentenced to undergo rigorous imprisonment for 10 years and to pay fine of Rs. 2,000/- respectively, with default stipulations.
2. In this case, prosecutrix (PW-1) is aged about 12 years. The Appellant is father of the prosecutrix. According to the case of

prosecution, mother of prosecutrix left the prosecutrix from her childhood and since then she was residing with her uncle Roopchand Sahu (PW-4). After marriage of Roopchand Sahu, the Appellant taken the prosecutrix with him and since then she was residing with her father/Appellant. On 21.09.2014, the prosecutrix lodged a report in Police Station Nandghat Distt. Bemetara (C.G.) alleging therein that between 12.05.2014 to 19.09.2014, the Appellant five times committed forcible sexual intercourse with her and threatened her for life to not disclose the incident to anyone. On 19.09.2014 also, the Appellant did the same, on being fed up, the prosecutrix narrated the incident to her uncles Bhikhamchand Sahu (PW-2) and Roopchand Sahu (PW-4) and thereafter lodged the said report against the Appellant. On the basis of report made by the prosecutrix, offence has been registered against the Appellant. The prosecutrix was medically examined by Dr. Anamika Minj (PW-13) and her report is Ex. P-10. Later on statement of the 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 15 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. Learned Counsel appearing for the Appellant would submit that without

there being any clinching and reliable evidence available on record, the Trial Court has convicted the Appellant. He further submits that the statement of the prosecutrix is not reliable because there is sufficient evidence available on record which shows that there was a previous enmity between the Appellant and Roopchand (PW-4) due to which Roopchand (PW-4) provoked the prosecutrix and she lodged a false and fabricated report against the Appellant but, the Trial Court has not appreciated this fact and wrongly convicted the Appellant, therefore, his conviction is not sustainable.

5. Learned Counsel appearing for the State opposed the appeal and supported the impugned judgment of conviction.
6. 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.
7. There is no dispute on the point that prosecutrix (PW-1) is a real daughter of the Appellant, at the time of incident she was aged about 12 years and mother of the prosecutrix left her from her childhood since then she was residing with her uncle Roopchand Sahu (PW-4). There is also no dispute on the point that after marriage of Roopchand Sahu (PW-4), the Appellant had taken the prosecutrix with him and since then she was residing with the Appellant. With regard to the incident, in her Court statement prosecutrix (PW-1) categorically deposed that when she was residing with the Appellant at that time the Appellant five times committed forcible sexual intercourse with her and also threatened her for life. She further deposed that she narrated the entire incident to her uncles namely Bhikhamchand Sahu (PW-2) and

Roopchand Sahu (PW-4) and thereafter lodged a report against the Appellant. The above statement of this witness is duly corroborated by Bhikhamchand Sahu (PW-2) and Roopchand Sahu (PW-4). All the above witnesses remain firmed during their cross-examination. Though from the admission made by Roopchand Sahu (PW-4) that there was some dispute taken place between him and the Appellant. But, I do not found any substance with regard to the argument advanced by learned Counsel for the Appellant that Roopchand Sahu (PW-4) provoked the prosecutrix and she lodged a report against the Appellant. There is nothing on record on the basis of which statement of the prosecutrix can be disbelieved.

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