

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 748 of 2017

- Santosh Markam S/o Shri Amar Singh Markam Aged About 22 Years R/o Village- Neginala, Police Station Nagari, District Dhamtari, Chhattisgarh.

---- Appellant

Versus

- State of Chhattisgarh Through Police Station- Dugali, District- Dhamtari, Chhattisgarh.

---- Respondent

For Appellant	:	None.
For Respondent/State	:	Mr. Ravi Maheshwari, PL.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

24/06/2021

1. By the impugned judgment dated 30/04/2015 passed in Special Criminal Case No. 41/2014 by the learned Additional Sessions Judge (FTC), Dhamtari (C.G.), the Appellant has been convicted for the offence punishable under Section 4 of the POCSO Act and Section 363 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for 7 years, and to pay fine of Rs. 1000/- and rigorous imprisonment for 3 years, and to pay fine of Rs. 500/- respectively, with default stipulations.
2. According to the case of prosecution, on 30.08.2014 brother of the prosecutrix namely Ashok Kumar Netam (PW-4) made a report in concerned Police Station alleging therein that on 27.08.2014, the

Appellant came to his house and on the next day at around 4:30 PM, he went to Neginala village. On 28.08.2014 at 9 AM, the prosecutrix went to her school and came back at around 3 PM, thereafter, without informing anyone, she went somewhere and not returned. Thereafter, family members of the prosecutrix searched her and found her in Appellant cousin sister's house namely Bhagwati. After enquiry, the prosecutrix disclosed that the Appellant forcefully taken her with him and on way, he committed forcible sexual intercourse with her. On the basis of report made by brother of the prosecutrix, offence has been registered against the Appellant. Later on statement of the prosecutrix and other witnesses recorded under Section 161 of 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 7 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, Raipur District Raipur (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 14.12.2019.
5. Since no one appears for the Appellant today, I decide this appeal on merits.

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. On perusal of evidence adduced by the prosecution, it is well established that at the time of incident, the prosecutrix was aged below 18 years. From the Court statement of the prosecutrix, she categorically deposed that on the date of incident, the Appellant committed forcible sexual intercourse with her in her house later on, he did the same near pond and thereafter on various occasions, he forcefully committed sexual intercourse with her. She, remain firmed, during her cross-examination. There is nothing on record, on the basis of which her statement can be disbelieved. Her statement is duly corroborated by her brother Ashok Kumar Netam (PW-4).
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 learned 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