

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1031 of 2015**

Balwant Rao S/o Keshav Ram, aged about 25 years, R/o near Nagwanshi Provision Shop, Ward No. 10, Station Para, O.P. Chikhli, Rajnandgaon, presently residing at Sarveshwari Samuh branch, Village Bhanpuri, Police Station Lalbag, District Rajnandgaon (C.G.)

---- Appellant**Versus**

State of Chhattisgarh Through: Station House Officer, Police Station lalbag, District Rajnandgaon (C.G.).

---- Respondent

For Appellant	:	Ms. Iturani Mukherjee, Advocate
For Respondent	:	Mr. Priyanshu Gupta, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board**05/02/2021**

1. This appeal has been preferred under Section 374 (2) of Cr.P.C against the judgment dated 20/10/2014 passed in Sessions Trial No. 15/2013 by the Additional Sessions Judge (FTC), Rajnandgaon whereby the Appellant has been convicted under Sections 377, 342 and 506 of the IPC and Sections 3 & 4 of the Protection of Children from Sexual Offences, Act, 2012 (henceforth 'the Act') and sentenced to undergo RI for 10 years with fine of Rs. 500/-, RI for 6 months, RI for 6 months and RI for 7 years with fine of Rs. 500, respectively with default stipulations.
2. In this case, the age of the victim boy (PW2) was about 12 years at the time of the incident. Narendra Kumar (PW1), father of the victim boy

had lodged the report on 07/04/2013 vide Ex.P-1. It was alleged that on 06/04/2013, the victim boy had gone to Sarveshwari Aashram for eating tamarind along with his friends, where the appellant was working as guard. It is alleged that the appellant allured the victim boy and took him inside a room, and there he entered his penis inside his mouth and anus thereby committing unnatural sex with him. The appellant also threatened him to kill. According to the prosecution case, the incident was witnessed by Monu Sahu and Homlal Sahu. On the basis of the report, offence has been registered. The victim boy was medically examined by Dr. Y.K Tiwari (PW11). After investigation, a charge-sheet has been filed. Trial Court framed the charges. Statement of the appellant was recorded under Section 313 of the Cr.P.C, wherein he has pleaded his innocence and false implication in the matter. No defence witness has been examined.

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 submits that the trial court has wrongly convicted the appellant without there being any clinching and sufficient evidence available on record. She further submits that there are material contradictions and omissions occurred in the statement of the witnesses, but ignoring these facts, the trial court has wrongly convicted the appellant, therefore, the conviction of the appellant is not sustainable.
5. 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.

6. I have heard learned Counsel appearing on behalf of the parties and perused the record minutely as well as the statement of the witnesses.
7. In his court statement, the victim boy (PW2) has supported the entire case of the prosecution. He has deposed that on the date of incident, he had gone to Aashram along with his friends Rinku and Jhallu. At that time, the appellant took him inside a room and there he entered his penis in his mouth and anus. According to this witness, the appellant also threatened him to kill. This witness has further deposed that his friends Rinku and Jhallu were present there and watching this from outside the window. Jhaleshwar @ Jhalu (PW4) and Monu @ Munesh (PW5) have supported the statement of the victim boy. They have deposed that they visited to Aashram along with victim boy. They saw from window that the appellant was committing unnatural sex with the victim boy. All the above three witnesses were remained firmed during their cross-examinations. Immediately after the incident, the victim boy was medically examined by Dr. Y.K. Tiwari (PW11). His report is Ex.P-3. At the time of examination, he found three injuries in the anus of the victim boy and bleeding was coming from those injuries. According to this witness, injuries may have caused due to ceramic.
8. On minute examination of the above evidence, it makes clear that the victim boy (PW2) has categorically stated that at the time of incident, the appellant inserted his penis inside his mouth and anus, and committed unnatural sex with him, which has been duly supported by Jhaleshwar @ Jhalu (PW4) and Monu @ Munesh (PW5). Even, there is nothing in their statements on the basis of which their statements

may be discarded. From the statement of Dr. Y.K. Tiwari (PW11) and medical report (Ex.P-3) of the victim boy, it is also established that there was three injuries over the anus of the victim boy and bleeding was coming out from those injuries.

9. Looking to the above evidence adduced by the prosecution, in my considered view, the trial Court has rightly convicted the appellant.
10. Consequently, I do not find any merit in this appeal. The same is dismissed.

Sd/-
(Arvind Singh Chandel)
Judge