

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1462 of 2015

- Khemchand @ Golu Markande S/o Shyam Ratan Markande Aged About 25 Years R/o Village Baigatola Satnamipara, Thana Somni, Distt. Rajnandgaon, Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through P.S. Somni, Distt. Rajnandgaon, Chhattisgarh.

---- Respondent

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

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

18.08.2021

1. This appeal has been preferred against the judgment dated 07.11.2015 passed in Session Case No.03/2015 by the learned Additional Sessions Judge(FTC) and Special Judge of POCSO, Distt. Rajnandgaon (C.G.) wherein, the Appellant has been convicted for the offence punishable under Section 456 & 376 of the IPC and sentenced to undergo RI for 03 years and to pay fine of Rs. 1,000/- and RI for 10 years and to pay fine of Rs. 2,000/- respectively, with default stipulations. Both the sentence to be run concurrently.
2. In this case, at the relevant time age of the prosecutrix (PW-1) was about 56 years. According, to the case of prosecution, on

the date of incident i.e. 01.12.2014 at around 11 PM when the prosecutrix was sleeping in her home, the Appellant knocked her door and forcefully entered in her house and by given threats, he committed forcible sexual intercourse with her, he also threatened her for life if she disclosed the incident to anyone. Immediately after the incident, she narrated the incident to her son and village Kotwar. Thereafter, the matter was reported vide Ex. P-1. The prosecutrix was medically examined by Dr. Runa Singh (PW-4) her report is Ex. P-7, she was further examined by Dr. VP Khunte (PW-6) his report is Ex. P-7-B. Later on, statement of the prosecutrix and other witnesses were recorded under Section 161 of Cr.P.C. After completion of investigation, charge-sheet was filed by the Police. Trial Court framed the charges against the Appellant. To robe the Appellant in the crime-in-question, the prosecution has examined as many as 10 witnesses. In the statement of the Appellant recorded under Section 313 of Cr.P.C, he has pleaded his innocence and false implication in the matter, however, no defence witness was examined by the Appellant.

3. After completion of trial, Trial Court convicted and sentenced the Appellant as mentioned in Para 01 of this judgment. Hence, this appeal.
4. Learned Counsel appearing for the Appellant submits that the Appellant has wrongly convicted by the Trial Court without there being any clinching and reliable evidence available on

record. He further submits that statement of the prosecutrix is suspicious and there are material contradictions and omissions occurred in her statement, therefore, conviction of the Appellant is not sustainable.

5. On the contrary, learned State Counsel opposed the appeal and supported the impugned judgment.
6. I have heard learned counsel appearing on behalf of the parties and perused the record minutely. I have also gone through statements of the witnesses.
7. In her Court statement, prosecutrix (PW-1) supported the entire case of prosecution and categorically deposed that when she was sleeping in her home, the Appellant unauthorizedly entered in her house and committed forcible sexual intercourse with her due to that she also sustained injuries. Immediately after the incident, she narrated the entire incident to her son and village Kotwar. This witness remain firmed during her cross-examination. There is nothing on record on the basis of which it can be proved that due to previous enmity, the Appellant has falsely been implicated by the prosecutrix. The medical reports of the prosecutrix also corroborated her statement.
8. Looking to the entire case of prosecution and considering the evidence available on record. In my considered view, 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.

10. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge