

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 1539 of 2016

- Chintaram Banjare, S/o Jhaduram Banjare, Aged About 48 Years, R/o Patharchuwa, Police Station Suhela, Tahsil Simga, District Baloudabazar, Chhattisgarh.

---- Appellant

Versus

- State of Chhattisgarh, Through Thana Suhela, District Baloudabazar, Chhattisgarh.

---- Respondent

For Appellant	:	Ms. Smita Jha, Advocate.
For State/Respondent	:	Shri H.S. Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

12/07/2021

1. This appeal has been preferred against the impugned judgment dated 25/07/2016 passed in S.T. No.H-05/16 by the Additional Sessions Judge, Bhatapara, District – Balodabazaar, (C.G.) wherein appellant has been convicted and sentenced as under :

<u>Conviction</u>	<u>Sentence</u>
U/s 8 of POCSO Act,	R.I. for 4 years and fine of Rs.2,000/- with default stipulations.

2. Brief facts of the case are that at the relevant time, age of the prosecutrix (PW-1) was below 18 years and she was studying in class 9. Appellant herein, is the father of the prosecutrix. On the date of incident i.e. 25.01.2016, when prosecutrix was in her house, appellant came there and told her to sleep with him by pulling her hand. Prosecutrix somehow frees her hand and ran away to her grandmother's house. Appellant also reached there and slapped the prosecutrix and tore her dress. Thereafter, matter was reported by prosecutrix and on the basis of the said, offence was registered. Statement of prosecutrix and other witnesses were recorded under Section 161 of Cr.P.C. After completion of the investigation, a charge-sheet was filed. To prove the guilt of the accused/appellant, prosecution has examined as many as 7 witnesses. No defence witness has been examined. Statement of appellant under Section 313 of the Cr.P.C. was recorded, wherein accused/appellant has pleaded his innocence and false implication in the matter.
3. After completion of trial, the trial Court framed the charges and convicted and sentenced the appellant as mentioned in paragraph 1 of this judgment. Hence, this appeal.
4. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Raipur, (C.G.) dated 07.07.2020 would mention that appellant has been released from jail on 01.04.2019 after completion of entire jail sentence imposed by the trial Court.
5. Learned Counsel appearing on behalf of the appellant submits that appellant is innocent and is falsely implicated in the present case. She further submits that trial Court has wrongly convicted the appellant

without there being sufficient and clinching evidence against him. There are material contradictions and omissions occurred in the statement of the prosecutrix, therefore, her statement is not reliable. Thus, conviction of the appellant is not sustainable.

6. I have heard learned Counsel appearing for the parties, perused the record and gone through the statements of the witnesses and other material available on record minutely.
7. Prosecutrix (PW-1) has supported the entire case of the prosecution and deposed accordingly. Though, there are some material contradictions and omissions occurred in the statement of the prosecutrix, but they are not material. She has remained firm during her cross-examination. Prosecutrix (PW-1) is the daughter of the appellant. There is nothing on record on the basis of which it can be said that she has falsely implicated her father. Statement of the prosecutrix is duly corroborated by her brother namely Nirmal Banjare (PW-2) and Ganga Bai (PW-3), who is the mother of the appellant.
8. On a minute examination of the evidence on record, and looking to the statements of the above witnesses, it is clear that there is sufficient evidence against the appellant to hold him guilty. In my considered view, the trial Court has rightly convicted the appellant.
9. Consequently, the appeal has no merit and is, therefore, dismissed.

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