

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 1534 of 2016

- Shatrughan Komra S/o Mahnguram Komra Aged About 25 Years R/o Village Barbaspur, Police Station Korar, District - North Bastar Kanker, State Chhattisgarh.

---- Appellant

Versus

- State Of Chhattisgarh Through Aarkshi Kendra - Korar, District - North Bastar Kanker, State Chhattisgarh.

---- Respondent

For Appellant	:	Mr. Santosh Bharat, Advocate.
For Respondent/State	:	Mr. Akash Pandey, P.L.

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

10/09/2021

1. By the impugned judgment dated 05/08/2016 passed in S.T. No. 31/2014 by the learned Additional Sessions Judge (FTC) and Special Judge, District North Bastar Kanker (C.G.), the Appellant has been convicted for the offence punishable under Section 363 of the IPC and sentenced to undergo RI for 3 years and to pay fine of Rs. 200/-, Section 366 of the IPC and sentenced to undergo RI for 5 years and to pay fine of Rs. 500/-, Section 506(B) of the IPC and sentenced to undergo RI for 3 years and to pay fine of Rs. 200/-, Section 376(2)(i) of the IPC and sentenced to undergo RI for 10 years and to pay fine of Rs. 2,000/- & Section 6 of the POCSO Act. As per the provisions of Section 42 of the POCSO Act, the Trial Court has sentenced the Appellant only for the offence punishable under Section 376(2)(i) of

the IPC instead of Section 6 of the POCSO Act. All the jail sentence to be run concurrently.

2. In this case there are two victim girls (PW-1) & (PW-2). At the time of incident (PW-1) was aged about 9 years and (PW-2) was aged about 8 years. On 16.09.2014, Kumari Bai (PW-5) lodged a report vide Ex. P-1, alleging therein that on 23.08.2014, when both the victim girls were playing in front of one Anish's house at that time, the Appellant came there and by alluring them he taken them to his house thereafter he removed their panties and one by one committed sexual intercourse with them. He also threatened them for their life if they disclosed the incident to anyone. Both the victims after returning home narrated the entire incident to their mothers. In this regard, village meeting was also conducted two times and thereafter, the matter was reported. Victim girl (PW-1) was medically examined by Dr. Ujjwala Dewangan (PW-8) her report is Ex. P-2. On the basis of said report lodged by Kumar Bai (PW-5), offence has been registered against the Appellant. Later on statements of the victims were recorded under Section 164 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 13 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 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 being any clinching and reliable evidence available on record the Trial Court has convicted the Appellant. He further submits that there are material contradiction and omissions occurred in the statement of the witnesses, therefore, their statements are not reliable. All the material witnesses (PW-1), (PW-2) and (PW-3) are the children witnesses and it appears that in this regard they have stated what they have taught from their parents, therefore, their statements are not be believable. The Counsel lastly submits that medical report (Ex. P-2) of victim (PW-1) also not supported the case of the prosecution, therefore, conviction of the Appellant 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. In their Court statements both the victims (PW-1) & (PW-2) have categorically deposed that at the time of incident when they were playing in front of Anish's house at that time, the Appellant came their and by alluring them he taken them to his house thereafter he removed their panties and one by one he committed sexual intercourse with them. (PW-3) is the younger brother of (PW-1) at the relevant time he was aged about 7 years has also supported the statements of (PW-1) & (PW-2) and categorically deposed that at the time of incident when he was playing along with victim girls at that time the Appellant came their and by alluring them he taken them to his

house thereafter he committed sexual intercourse with the victims. The Appellant also threatened (PW-3) for life if he disclosed the incident to anyone. All the three witnesses were remain firm during their cross-examinations. There is nothing on record on the basis of which their statements can be disbelieved. Immediately after the incident, the matter was also informed to the villagers. From the statements of Kailash (PW-4), Kumar Bai(PW-5), Dullo Bai(PW-6) & Ankaluram(PW-7) it is also well established that after the incident, two times village meeting was conducted thereafter, mothers of the victims lodged a report against the Appellant and their statements are not rebutted during their cross-examinations. It was found in medical report (Ex.P-2) of (PW-1) that her hymen was intact but, she was medically examined after 24 days from the date of incident on 17.09.2014, therefore, if there was no redness, swelling and injury was not found in private part of the victim even then there is no adverse effect in the prosecution case.

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