

IN THE HIGH COURT AT CALCUTTA
CRIMINAL APPELLATE JURISDICTION
APPELLATE SIDE

Present:

The Hon'ble Justice Joymalya Bagchi

And

The Hon'ble Justice Ajay Kumar Gupta

C.R.A. 73 of 2015

Krishnapada Debnath
-Vs-
The State of West Bengal

For the Appellant : Mr. Uttiya Ray, Adv.
Mr. Arnab Mandal, Adv.

Heard on : 22.11.2022

Judgment on : 22.11.2022

Joymalya Bagchi, J. :-

Appeal is directed against judgment and order dated 28.01.2015 & 29.01.2015 passed by learned Additional Sessions Judge, 2nd Court, Contai, Purba Medinipur in Sessions Case No. 192/Aug of 2010 (S.T. No.02/Oct of 2010 convicting the appellant for commission of offences punishable under Sections 363/366/376 of the Indian Penal Code and sentencing him to suffer rigorous imprisonment for five years and to pay a fine of Rs.5,000/-, in default, to suffer further simple imprisonment for six months more for the offence punishable under Section 363 IPC, to suffer rigorous imprisonment for seven years and to pay a fine of

Rs.7,000/-, in default, to suffer simple imprisonment for nine months more for the offence punishable under Section 366 IPC and to suffer rigorous imprisonment for ten years and to pay a fine of Rs.10,000/-, in default, to suffer simple imprisonment for one year more for the offence punishable under Section 376 IPC; all the sentences to run concurrently.

The appeal is ready for hearing.

Learned advocate for the appellant submits that the appellant does not wish to proceed with the appeal.

As the appeal has already been admitted, we have considered the appeal on merits.

PW5 is the victim girl. She deposed she was kidnapped by the appellant and taken in a trekker to different places where she was compelled to cohabit. She was aged around 14 years and was a student of Class-VII at Durmut Chandberia Adarshya Vidyapith.

PW8 (Mriganka Mouli Maity) headmaster of the school had produced the school certificate with regard to the age of the girl (Exts.4, 5 & 6).

Parents of the victim girl have been examined as PW1 (Ganesh Debnath) and PW3 (Smt. Sulekha Debnath).

PW2 (Amal Debnath) and PW4 (Smt. Radha Debnath) are the grandparents of the minor victim.

All the said witnesses have corroborated the prosecution case.

PW9 (Dr. Nirapada Jana) examined the minor and found her hymen ruptured. He proved the medical report as Ext.7.

From the aforesaid evidence, it appears that the victim girl was a minor when she was kidnapped by the appellant. Her consent, therefore, is immaterial. Evidence on record as well as the medical opinion shows appellant had cohabited with the minor. Hence, the prosecution case is proved beyond doubt.

Conviction and sentence imposed upon the appellant are upheld.

Period of detention suffered by the appellant during investigation, enquiry and trial shall be set off against the substantive sentence imposed upon him in terms of Section 428 of the Code of Criminal Procedure.

Appeal is accordingly dismissed.

Lower court records along with a copy of this judgment be sent down at once to the learned trial Court for necessary action.

Photostat certified copy of this order, if applied for, be given to the parties on priority basis on compliance of all formalities.

I agree.

(Ajay Kumar Gupta, J.)

(Joymalya Bagchi, J.)