



2026:CGHC:4658

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****CRA No. 22 of 2011**

1 - Rajkumar Yadav, S/o Sukhram Yadav, Aged about 22 years, Occupation Agriculturist, R/o Village Rouni Datalgawa, Police Station Bagicha, Tahsil Bagicha District Jashpur (C.G.).

... Appellant**versus**

1 - State of Chhattisgarh Through: Station House Officer, Police Station Bagicha, District- Jashpur (C.G.).

... Respondent(s)

For Appellant	:	Mr. J.K. Saxena, Advocate
For Respondent(s)/State	:	Ms. N.K. Kashyap, P.L.

Hon'ble Smt Justice Rajani Dubey**Judgment on Board****28/01/2026**

1. The present appeal under Section 374(2) of the Code of Criminal Procedure has been preferred against the judgment of conviction and order of sentence dated 14.12.2010 passed by the learned Sessions Judge, Sessions Court, Jashpur, District Jashpur (C.G.)



in Sessions Trial No. 13/2010, whereby, the learned trial Court has convicted the appellant and sentenced him as under:-

Conviction	Sentence
U/s 376 (1) of IPC	R.I. for 7 years with fine of Rs.100/- and in default of payment of fine, additional R.I. for 1 month

2. The prosecution case, in brief, is that in October 2007, on the date of the alleged incident, the prosecutrix had gone to the Datlagwa forest for collecting firewood. It is alleged that the accused approached her for committing sexual intercourse with her. When the prosecutrix attempted to flee out of fear, the accused chased her, caught hold of her and despite her raising alarm, no one came to her rescue as the place was secluded. It is further alleged that the accused forcibly threw her to the ground and committed sexual intercourse against her will. Thereafter, when the prosecutrix started crying and stated that she would disclose the incident to her family members, the accused allegedly assured her that he would marry her. The said assurance, according to the prosecution, was false and fraudulent, as the accused subsequently refused to marry her. On 05.10.2009, a report of the incident was lodged at Police Station Bagicha, pursuant to which a crime was registered and investigation was carried out. Upon completion of the investigation, a charge-sheet was filed before



the concerned Court against the appellant. Thereafter, learned trial Court framed the charge under Section 376 (1) of IPC against the appellant, to which appellant abjured his guilt and claimed to be tried.

3. In order to establish the guilt of the accused/appellant, the prosecution examined as many as 8 witnesses. The statement of the accused/appellant was also recorded under Section 313 of the Code of Criminal Procedure, wherein he denied all the incriminating circumstances put to him and pleaded innocence, alleging false implication in the case. The accused/appellant, however, did not lead any evidence in defence.
4. Upon due appreciation of the oral as well as documentary evidence available on record, the learned Trial Court, by judgment dated 14.12.2010, held the prosecution evidence to be reliable and trustworthy and consequently convicted the accused/appellant under Section 376(1) of the Indian Penal Code, sentencing him as indicated in para 1 of the judgment.
5. Learned counsel for the appellant submits that the judgment of conviction and order of sentence passed by the learned Trial Court is unsustainable in law and on facts. The learned Trial Court has misappreciated the evidence on record and improperly relied upon the testimonies of prosecution witnesses, despite material contradictions and omissions which go to the root of the case and fail to establish the guilt of the appellant. The findings recorded



are not based on reliable, cogent, or legally admissible evidence and are contrary to settled principles of criminal jurisprudence.

The learned Trial Court failed to consider the material medical evidence of P.W.-5, Dr. Smt. V. Bakhla, as well as the inordinate and unexplained delay of about two years and two months in lodging the FIR, which seriously affects the credibility of the prosecution case. It is further submitted that the prosecutrix was a consenting party and that the report was lodged belatedly under family pressure, with the intent to falsely implicate the appellant. The judgment and sentence are therefore contrary to law and principles of natural justice and are liable to be set aside.

6. On the other hand, learned State counsel submits that the judgment passed by the learned Trial Court is based on proper appreciation of the facts and evidence available on record and, therefore, no interference by this Court is warranted in the matter.
7. Heard counsel for the parties and perused the material available on record.
8. A perusal of the record of the learned Trial Court reveals that a charge under Section 376(1) of the Indian Penal Code was framed against the appellant. Upon appreciation of the oral and documentary evidence adduced during trial, the learned Trial Court convicted the appellant for the said offence under Section 376(1) of the Indian Penal Code.
9. The prosecutrix (P.W.-1) deposed that on the date of the alleged



incident, she had gone to the forest for collecting firewood. At that time, the accused was allegedly present in the same forest slaughtering cows, whereupon he committed sexual intercourse with her against her will. She further stated that as a consequence thereof, she became pregnant and subsequently gave birth to a child. Thereafter, she lodged a report at the concerned police station and an FIR was registered against the accused. She further deposed that after the birth of the child, the accused assured her that he would keep her with him but later refused to do so.

In her cross-examination, she admitted that when her child was about nine months old, she approached the police station for lodging the report.

In para 14 of her deposition, she stated that she was married to one Raghuvir during her childhood. She, however, denied the suggestion that she had two children from Raghuvir.

In para 15, she admitted that the accused had earlier lodged a report against her father, brother and uncle for offences punishable under Sections 384 and 386 of the Indian Penal Code, pursuant to which they were incarcerated for a period of approximately 20 to 22 days.

In para 16, she denied the defence suggestion that on account of the said report lodged by the accused against her family members, they had conspired to falsely implicate the



accused in the present case.

In para 17, she admitted that the father of the accused had submitted an application before the office of the Sub-Divisional Officer seeking a DNA test to ascertain whether the child was born from the accused or from Raghuveer.

She further stated that she had no knowledge of the fact that the Chief Executive Officer, Janpad Panchayat, Bagicha, had identified Raghuveer as the father of her children. She also admitted that she was unaware of the name of the person recorded as the father in her son's birth certificate.

She stated that her marriage with Raghuveer had not been dissolved by any Court of law. She, however, denied the suggestion that the child was born from Raghuveer.

10. The father of the prosecutrix (P.W.-2) deposed that the accused had committed rape upon his daughter. He further stated that when the prosecutrix became pregnant, she informed him that the child was conceived from the accused.

In his cross-examination, he admitted the defence suggestion that the father of the accused had earlier lodged an FIR against him and certain other persons, pursuant to which they were detained in jail for about eighteen days.

He, however, denied the suggestion that on account of the said report lodged by the father of the accused, a false case was



instituted against the accused as a counterblast.

11. Dr. Smt. V. Bakhla (P.W.-5), who medically examined the prosecutrix, stated that upon examination, the hymen of the prosecutrix was found to be old ruptured and that she had a child aged about one and a half years. She gave her medical examination report vide Ex.P/7.
12. Upon close scrutiny of the statements of the prosecutrix and other prosecution witnesses, it is evident that as per the FIR (Ex.P/3), the alleged incident pertains to October, 2007, whereas the FIR was lodged on 05.10.2009. The cause for delay mentioned in the FIR is “शिकायत पत्र जाँच बाद”. The prosecution has failed to furnish any satisfactory explanation for this inordinate delay of nearly two years in lodging the FIR.
13. Further, from the testimony of the prosecutrix herself, it is apparent that the FIR was lodged when the child was about nine months old, which significantly undermines the prosecution case. The prosecutrix was approximately 23 years of age at the time of the alleged incident and it is not the case of the prosecution that she was a minor below eighteen years on the relevant date. The statements and conduct of the prosecutrix clearly indicate that she was a consenting party. However, these material aspects have not been properly appreciated by the learned Trial Court. Consequently, the findings recorded by the learned Trial Court cannot be sustained in the eyes of law.



14. Accordingly, the judgment and order of conviction passed by the learned Trial Court are set aside. The appeal is allowed and the appellant is acquitted of the charge levelled against him.

15. The appellant is reported to be on bail, therefore, keeping in view the provisions of Section 437-A of Cr.P.C. (481 of the B.N.S.S.), the appellant is directed to forthwith furnish a personal bond in terms of Form No. 45 prescribed in the Code of Criminal Procedure of sum of Rs.25,000/- with one surety in the like amount before the Court concerned which shall be effective for a period of six months along with an undertaking that in the event of filing of Special Leave Petition against the instant judgment or for grant of leave, the aforesaid appellant on receipt of notice thereof shall appear before the Hon'ble Supreme Court.

16. The trial Court record along with a copy of this judgment be sent back immediately to the trial Court concerned for compliance and necessary action.

Sd/-

(Rajani Dubey)

JUDGE