



2026:CGHC:13723

**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**CRA No.297 of 2008**

1 - Devadhar Lal @ Deva, aged about 32 years, S/o Shri Balu Ram Thakur, R/o Village Bundeli, PS Daundilohara, District Durg (C.G.)

**Appellant (s)**

**versus**

1 - State Of Chhattisgarh through the Station House Officer, PS Anda, District Durg (C.G.)

**Respondent(s)**

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For Appellant (s) : Mr. Praveen Dhurandhar, Advocate

For Respondent(s) : Mr. Avinash Singh, GA

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**Hon'ble Smt. Justice Rajani Dubey**

**Judgment on Board**

**23/03/2026**

1. The present appeal is directed against the judgment of conviction and order of sentence dated 07.03.2008 passed by the learned 11<sup>th</sup> Additional Session Judge (FTC), Durg in Session Trial No.164/2007, whereby the appellant has been convicted under Sections 376 & 450 of IPC and sentenced to undergo RI for 10 years and RI for 5 years, respectively, with default



stipulations.

2. The prosecution case, in brief, is that on the date of incident i.e. on 15.5.2007 at 10.30 pm, when the Prosecutrix came into her room from nature's call, she found that the appellant /accused was standing in her room, who by gagging her mouth and making her fallen down on earth committed rape on her. On cry of the Prosecutrix, her husband came there in the room. Thereafter the accused / appellant ran away from the room by locking the door from outside. When the prosecutrix and her husband made cry, the other persons came there and opened the door to whom the prosecutrix narrated about the incident. After the incident, the prosecutrix consumed poison along with honey and butter, due to which her condition become bad and hence she was admitted to hospital and thereafter the matter was reported to the police station concerned, upon which a case was registered against the accused and he was arrested. After completion of investigation, the charge sheet was filed against the appellant before the Magistrate concerned.
3. Learned counsel for the appellant submits that the judgment passed by the learned Trial Court is contrary to law and material available on record. Prior to 18 days 11 days of the incident, the prosecutrix and accused/appellant enjoyed the company of each other by staying at Mayura Hotel, situated at Rajnandgaon. On the date of husband, the husband of the Prosecutrix came during compromise position in room and thereafter the Prosecutrix



started hue-&-cry. There is three days delay in lodging the F.I.R and no plausible explanation has been given by the prosecution in this regard. There are various omissions and contradictions in the statements of prosecutrix and her husband but the learned Trial Court has not considered the above said aspect of the matter. Therefore, the appeal deserves to be allowed.

4. Per contra, learned State counsel supports the impugned judgment and submits that the learned Trial Court has minutely appreciated the evidence available on record and has rightly convicted the appellant, as such no interference is called for. Therefore, the appeal deserves to be dismissed.
5. Heard learned counsel for the parties and perused the material available on record.
6. It is clear from the record of the learned Trial Court that the learned Trial Court framed charges under Sections 450 & 376 of IPC against the appellant. After appreciation of oral and documentary evidence available on record, the learned Trial Court convicted and sentenced the appellant, as mentioned in para 1 of the judgment.
7. The prosecutrix (PW-1) stated that on the night of 15.05.2007 around 10 PM, she had gone to nature's call and when she returned back and entered the room, I saw that the accused was already present inside. On seeing him, she got frightened and tried to shout, but he covered her mouth and threw her on the ground and committed rape forcefully with her. She further stated



that she cried for help, upon which her husband, who was sleeping outside, came inside the room and upon seeing him the accused flew away, thereafter other villagers also came there and they narrated the entire incident to them but her condition deteriorated, as she consumed poison along with honey and butter together. Thereafter the matter was reported to the police station concerned on 17.05.2007 vide Ex-P/1, whereas consent letter for medical examination is Ex-P/2 and she admitted her signatures on A to A part on these documents. The police seized her underwear and petticoat vide seizure memo (Ex-P/3) and prepared spot map (Ex-P/4) & (Ex-P/5). She admitted her signatures on A to A part on the same. In the cross-examination, she admitted that she is married lady and she has 4 children. She also admitted in para 7 that on 27.04.2007, she stayed with the accused in Mayur Hotel in Room No.208 till 10:30 of 28.04.2007. In para 8, she admitted that physical relation was made between her and the accused as husband and wife and she did not tell anybody about forceful intercourse by the accused and even did not lodge any report. She denied this suggestion that her husband told her to lodge report against the accused. In para 13, she admitted that after she returned from hospital, as she fell ill due to consuming of honey and butter together, a panchayat meeting was convened and she showed her willingness to lodge report against the accused. She also admitted that after discussion with family members, she lodged



report on 17.05.2007 against the accused.

8. The husband of the prosecutrix (PW-2) stated that on the date of incident on 15.05.2007 when he was sleeping in another room, then he heard noise of his wife saying help-help, upon which he went there and saw that the accused was making physical relation with his wife and seeing him he flew away, though he tried to catch. Thereafter the other villagers and family members told him to lodge report against the accused, but as his wife felt ashamed and she also fell, they did not lodge report on that day and after treatment of her wife, they lodged the report on 17.05.2007. In cross-examination, he admitted this suggestion that after discussion with family members, they lodged report against the accused.
9. PW-5 Girdhar Lal and PW-6 Agnuram stated that on the date of incident, when they heard noise of help-help from the house of the prosecutrix, they went there along with others where the husband of the prosecutrix told them that the accused committed rape with his wife. The prosecution declared them hostile and cross-examined them but they denied all suggestions of prosecution and also denied their police statement.
10. PW-7 Subedas stated that the husband of the prosecutrix came to his house in the night of 15.05.2007 and told that the accused committed rape with her due to which she consumed poison as a result of which her condition got deteriorated and thereafter a report was lodged. In the cross-examination, he admitted that he



used to go to the house of the prosecutrix and the prosecutrix is of his caste and considers him as her father-in-law.

11. Dr. Smt. Ujjwala Dewangan (PW-10) examined the prosecutrix on 18.05.2007 but she did not find any internal or external injuries. She prepared slide and referred the same for chemical examination. She opined that no definite opinion can be given regarding sexual intercourse and her report is Ex-P/8.
12. Close scrutiny of statement of all the witnesses clearly shows that the statements as well as the conduct of the prosecutrix are not reliable. She admitted that she was in relation with the accused and she went with the accused and stayed with him in a hotel. It is clear from Ex-P/1 that the date of incident is 15.07.2007, whereas the report was lodged by the prosecutrix on 17.05.2007. She admitted that before lodging FIR, some social meeting was convened and the prosecutrix (PW-1) admitted this suggestion that when her husband come, then he saw that the accused was making physical relation with her. The prosecutrix is a married lady aged about 35 years and she has 5 children. She admitted that she made relation with the accused in a hotel but did not tell anybody about the same. Thus, it is clear that the prosecutrix is consenting party to the act of the appellant and when her husband saw them in compromise position only thereafter report was lodged that too after 2 days, but the learned Trial Court did not consider all these aspects of the matter, as such finding recorded by the learned Trial Court is not sustainable.



13. Consequently, the appeal is allowed and the impugned judgment of conviction and order of sentence is hereby set aside. The appellant is acquitted of the charges under Sections 376 & 450 of IPC.
14. The appellant is reported to be on bail.
15. Keeping in view the provisions of section 481 of BNSS 2023, the appellant is directed to furnish a personal bond for a sum of Rs.25,000/- before the Court concerned forthwith, 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's record along with the copy of this judgment be sent back immediately to the trial Court concerned for compliance and necessary action.

Sd/-

Rajani Dubey  
Judge