
(2020) 03 CHH CK 0002
In the Chhattisgarh High Court
Case No : Criminal Appeal No. 96 Of 2002

Mahendra Ram And Anr

APPELLANT

Vs

State Of Chhattisgarh Through And Anr

RESPONDENT

Date of Decision : 02-03-2020

Acts Referred:

Indian Penal Code, 1860 — Section 3(1)(xi), 376(2)(g)
Code Of Criminal Procedure, 1973 — Section 161, 313

Citation : (2020) 03 CHH CK 0002

Hon'ble Judges : Arvind Singh Chandel, J

Bench : Single Bench

Advocate : Sushil Dubey, Rishi Rahul Soni, Ajay Kumrani

Final Decision : Allowed

Judgement

Conviction,Sentence

Under Section 376(2)(g) of the Indian

Penal Code", "Rigorous Imprisonment for 10

years and fine of Rs.5,000/- with

default stipulation

swelling over private part of the prosecutrix. She found that hymen of the prosecutrix was ruptured. Slight bleeding was found from the private part.,

Swelling, tenderness and laceration were also found over the perineum. As opined by this witness, sexual intercourse with the prosecutrix was done 2",

days prior to her medical examination. This witness has admitted that she did not find any injury or abrasion over body of the prosecutrix.,

13. Dhaniram (PW5) has deposed that Sarturam (PW3) had told him that the Appellants had done wrong with the prosecutrix. Dhaniram has further,

deposed that on being asked by him from the prosecutrix, she had told him the same thing. However, in paragraph 4, this witness has further stated",

that whose name was told to him by the prosecutrix is not known to him.,

14. On a minute examination of the evidence available on record, it is clear that according to the medical examination report (Ex.P8) of the prosecutrix",

and as opined by Dr. Vinodini Bakhla (PW4), rape was committed with the prosecutrix, but as opined by this doctor, the rape was committed with the",

prosecutrix 2 days prior to her medical examination. Therefore, it is doubtful that the alleged rape was committed with the prosecutrix on the date of",

incident, i.e., 13.7.2000. From the admission and statement made by the prosecutrix, it is also established that many stones were lying on the spot, but",

no injury was found on her body during her medical examination. Movement of people was also continued at the place where the alleged incident took,

place, but the prosecutrix did not raise her voice there nor did she tell about the incident to any of the villagers there. From the statement of the",

prosecutrix, it is also established that she did not know the Appellants from before nor did she know their names. She saw them in the police station",

for the first time. In these circumstances, mentioning of names of the Appellants in the FIR by her and in her case diary statement is suspicious. From",

the admission made by her, it is also established that she even did not know Appellant Mahendra nor did she ever see him. In these circumstances,",

mentioning name of Appellant Mahendra in the FIR by her makes the entire FIR suspicious. From the statement of Anita (PW2) also, it is established",

that she also did not know the Appellants and as admitted by her she had made a false statement to implicate them. Considering the entire evidence,

available on record, I find that the whole prosecution story is doubtful. Thus, the Appellants are entitled to get benefit of doubt.",

15. Consequently, both the appeals are allowed. The impugned judgment of conviction and sentence is set aside. The Appellants are acquitted of the",

charge framed against them.,

16. Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.,