Neutral Citation
2024:CGHC:13402-DB



**AFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRA No. 250 of 2022**

Deepak Marawi @ Kallu S/o Amar Singh Marawi, aged about 27 years, R/o Raigarhdhiyatola Police Station-Amarkantak District Anuppur (M.P.) Temporary Residence Chaarpara-Khongasara Out Post Belgehna Police Station-Kota, District-Bilaspur (CG)

**---- Appellant (in jail)**

**Versus**

State of Chhattisgarh Through District Magistrate Kota, District Bilaspur (CG)

**---- Respondent**

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For Appellant : Mr.Vivek Tripathi, Advocate
For State/Respondent : Mr.Sakib Ahmad, Panel Lawyer

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**Hon'ble Shri Justice Ramesh Sinha, Chief Justice**

**Hon'ble Shri Justice Sachin Singh Rajput, J.**

**Judgment on Board**

Per **Ramesh Sinha, CJ**

**16/04/2024**

**1.** This appeal arises out of the judgment of conviction and order of sentence dated 11.08.2021 passed by the Additional Sessions Judge / First FTSC (POCSO), Bilaspur in Special Sessions Case No.78/2020, whereby the appellant has been convicted and sentenced in the following manner :

| Sl. No. | Conviction | Sentence |
|---|---|---|
| 1. | Under Section 363 of the Indian Penal Code. | Rigorous Imprisonment for 5 years and fine of Rs.250/-, in default of payment of fine further rigorous imprisonment for 6 months. |
| 2. | Under Section 366A of the Indian Penal Code | Rigorous Imprisonment for 5 years and fine of Rs.250/-, in default of payment of fine further rigorous imprisonment for 6 months. |

| | | |
|---|---|---|
| 3. | Under Section 5(l)/6 of the Prevention of Children from Sexual Offences Act, 2012 | Rigorous Imprisonment for 20 years and fine of Rs.500/-, in default of payment of fine further rigorous imprisonment for 3 years. |

**2.** The prosecution story, in brief, is that the prosecutrix has lodged report in Out Post Belgahna, District Bilaspur with an averment that she resided at the place of incident along with her parents and studied in class 9th. On 20.09.2020 about 9 P.M. she was standing near her house, then her neighbour Deepak Marawi came and holds her hand and be seated on motor-cycle and taken her to his house situated at village Karjiya and on 21.09.2021 at night accused Deepak Marawi on the pretext of marriage committed sexual intercourse on her and on 22.09.2021 taken her by motor-cycle and left her to Chaarpara, then she narrated the incident to her parents. Outpost Belgahna has forwarded the written report of the prosecutrix to the Station House Officer, Police Station Kota, whereby an offence under Sections 366, 366, 376 of the IPC and Section 6 of the POCSO Act has been registered against accused Deepak Marawi in Crime No.384/2020 vide Ex.P-5. Spot map was prepared by the investigating officer vide Ex.P-7. Statement of the prosecutrix was recorded under Section 164 CrPC before the Judicial Magistrate First Class, Kota vide Ex.P-8. Panchnama was prepared vide Ex.P-9. Patwari also prepared spot map vide Ex.P-10. Memorandum statement of the accused was recorded vide Ex.P-14. Honda CB Shine motorcycle and underwear of the

appellant were seized vide Ex.P-15. The prosecutrix was sent for medical examination to Community Health Center, Kota where Dr.Renuka Samual (PW-8) examined her and found following injuries:-

i. *Abrasion about 15-18 x ½ cm starting from right side of waist anterior to back tail end is on back upto vertebra column.*

*ii. Abrasion on abdomen about 4cmx12cm oblique about 3-4 cm away medial to 1st abrasion colour brown scab over it.*

*iii. 2 scratches brown colour parallel to each 1st 2 cm 2nd is about 4 cm long in upper 1/3 of left low limb lateral aspect.*

*iv. 2 scratches brown colour parallel to each oblique in direction on left low limb in low 1/3 parts 1st is about 2 cm 2nd is 1 cm long.*

*v. Multiple scratches in transverse / oblique directions in right low limb in lateral aspect from below knee to above ankle.*

*vi. Multiple scratches in right low limb in med aspect in scattered about 10 cm area above ankle. All scratches 5 & 6 are of about 1-10 cm colour is brown dry. Axillary & public hair are well grown black free. There is no injury in private part. Menstrual blood flow is s that from private part. Hymen old torned at 8 o'clock, 6 o'clock & 3 to 5 o'clock. No any injury inside private part. Menstrual flow is coming from*

*cervix. 2 vaginal slides made from post fx for FSL examination. One navae blue colour new panty which is of Dixcy Josh brand 75 cm she weared during examination, waste length 09 inches verticle length 10 cm. Some staining is in about 9.5"x3.0" area packed sealed for FSL examination. She took bath after coming to parents, she stayed for 2 nights with Deepak Maravi*.

**3.** Certified copy of dakhil-kharij register of the prosecutrix where her date birth has been mentioned as 26.05.2008 was seized vide Ex.P-21.One panty of the prosecutrix and two vaginal slides were seized vide Ex.P-22. Accused was also sent for medical examination to Community Health Center, Korba where Dr. Pradeep Agrawal examined him vide Ex.P-23 and opined that there is no evidence to suggest that he cannot perform sexual intercourse. No external injury seen on private parts. The accused was arrested on 24.09.2020 vide arrest memo Ex.P-29. Seized two vaginal slides, panty of the prosecutrix and underwear of the appellant were sent to FSL for examination. As per FSL report (Ex.P-35), semen stains and human sperm were found in panty Article "B" seized from the prosecutrix and underwear Article "C" seized from the appellant.



**4.** After completion of investigation, charge-sheet was filed before the Special Judge, Bilaspur. The Special Judge has framed charges against the appellant under Sections 363, 366 & 376(3) of the IPC

and Section 5(l)/6 of POCSO Act. The appellant abjured his guilt and pleaded innocence.

**5.** In order to establish the charge against the appellant, the prosecution examined as many as 18 witnesses. The statement of the appellant under Section 313 of CrPC was also recorded in which he denied the material appearing against him and stated that he is innocent and he has been falsely implicated in the case. After appreciation of evidence available on record, the learned trial Court has convicted the accused/appellant and sentenced him as mentioned in para 1 of the judgment. Hence, this appeal.



**6.** Learned counsel for the appellant argued that the trial Court held in para 63 of the impugned judgment that from the evidence on record it has been shown that there is love relationship between the prosecutrix and the accused, but as per paras 20, 25 and 26 of the impugned judgment it has been proved that the prosecutrix is a major girl as per dakhil-kharij register marked as Ex.P-39, therefore, conviction of the appellant for offence under Sections 363, 366A and Section 5(l)/6 of the POCSO Act on the ground that the said document is public document as per Section 35 of the Evidence Act, therefore, for non-examination of the writer of the document is not suspicious and on entry of date birth on the imagination on the scholar register could not be said to be wrong because there is no possibility of presumption of commission of said incident at the time of entry of date of birth in the school which is contrary to the case

law reported in **Alamelu and Another Vs. State, represented by Inspector of Police, 2011 (2) SCC 385** wherein the Hon'ble Supreme Court by relying para 14 of the case of **Biradmal Singhvi v. Anand Purohit, 1988 Supp 604 (AIR 1988 SC 1796)** held that the date of birth mentioned in the scholars register has no evidentiary value unless the person who made the entry or who gave the date of birth is examined. He further submits that the prosecution agency has not proved the case of rape against the accused beyond reasonable doubt, but the trial Court has erroneously convicted the accused for commission of rape on a minor girl and thereby convicted and sentenced for offence under Sections 363, 366A and Section 5(l)/6 of the POCSO Act. He also submits that the trial Court has erroneously shifted the burden of proving the prosecutrix is beyond the age of 18 years on the accused as per para 28 of the impugned judgment and thereby proved that the prosecutrix was minor at the time of incident dated 26.05.2020, whereas firstly the prosecution is required to prove that at the time of incident the prosecutrix is a minor girl and on that reason the consent is immaterial, but in the present case, the prosecution has not proved that the prosecutrix is a minor girl during the time of incident. So, the conviction of the appellant is not sustainable in the eye of law. As such, the appeal deserves to be allowed and the impugned judgment deserves to be set aside.

**7.** On the other hand, learned counsel for the State opposes the submissions made by the learned counsel for the appellant and submits that the prosecutrix was minor and below 18 years of age at the time of incident which is proved by the School dakhil-kharij Ex.P-39 which contains the date of birth of the prosecutrix as 26.05.2008. The dakhil-kharij register is admissible piece of evidence to determine the age of the prosecutrix. Therefore, there is no illegality or infirmity in the findings recorded by the learned trial Court. The prosecutrix was abducted by the appellant and kept away from the lawful guardianship. The appellant kept her in illegal confinement for a considerable period and committed sexual intercourse with her. As such, the impugned judgment needs no interference.



**8.** We have heard the learned counsel for the parties and perused the record with utmost circumspection.

**9.** In order to consider the age of the prosecutrix, we have examined the evidence adduced by the prosecution. The prosecution relied upon the School dakhil-kharij (Ex.P-39) which contains the date of birth of the prosecutrix as 26.05.2008 which is sought to be proved by PW-17 Smt.Sanjay Porte, In-charge Principal of Primary School, Chharpara. Smt.Sanjay Porte (PW-17) has stated in her deposition that on 23.09.2020 memorandum (Ex.P-28) was given to her by Outpost Incharge, Belgahna regarding providing dakhil-kharij register of the victim. On her presentation of dakhil-kharij register of

Primary School, Chharpara, village Khongsara of the victim, it was seized by the police of Police Chowki Belgahna in front of witnesses vide seizure memo Ex.P-21. In para 3, she has stated that after the police obtained verified copy of dakhi-kharij register from her, the dakhil-kharij register was handed over to her. Today, she has brought the original dakhi-kharij register. In para 4 she has stated that in saral No.127/3.07.13 of dakhi-kharij register, name of the victim, name of the parents, caste, address, date of birth of the victim 26.05.2008 is written in words and figures. In para 5 of her cross-examination, she has admitted that at the time of admission of the victim, the parents of the victim did not bring the birth-death registration economic statistics office register, kotwari register and any other documents relating to the birth. She has further admitted that the date of birth of the victim which she has mentioned was given by her guardian in guess. The police had called her to the police station through telephone. The police made her sign two or three papers. She does not remember what was written on those papers. Now this witness stated that she had read those documents. She has denied that as per seizure memo Ex.P-21, no seizure was made from her.



**10.** The prosecutrix (PW-2) has been examined as PW-2. In para 2, she has stated that the incident happened about two months ago, she had gone to her elder father's house in the village for Chhatti function and was standing in front of her house around 9 P.M., at

the same time, the accused came on motor-cycle and forcefully took her with him to his house in Karjiya Ragdiatola. He started forcing himself on her. He had raped her. After this, he dropped her near Chharpara School after two days. Meanwhile, he had rape her twice. In para 3, she has stated that she came home and informed about the incident to her parents. On the next day, she, her elder brother, mother, mitan babu and maternal uncle went to Belgahna Police Station. In the police station, she told what had happened to her. Then the police asked her to give it in writing. Then she gave the report in her own handwriting. On the basis of this, the police had written report Ex.P-5. After this, the police took her along with her mother and father to Kota hospital where she was examined, there also the doctor had taken her consent. Her 164 CrPC statement was made before the Judicial Magistrate First Class, Kota vide Ex.P-8. In her 164 CrPC statement, she has stated that she has gone to her elder father Phool Singh's house for Chhatti function and returned from there at around 9 P.M. and was standing alone in front of her house, at the same time, Deepak Maravi who lives in her neighbourhood came on motor-cycle and forcefully took her with him in Karjiya (M.P.) where he had established sexual intercourse on her. After this, at 3 A.M. he took her back to her village on a motor-cycle and left her in front of her school at around 7 A.M. After that, she came to her house and told about the incident to her parents.

**11.** Mother of the prosecutrix (PW-1) has admitted in para 4 of her evidence that the victim had told her that the accused had come near her house, held her hand, told her that he liked her, forced her to sit on his motor-cycle and took her to his native village.

**12.** Father of the prosecutrix (PW-3) has stated in his evidence that he has gone to Chhatti function with his family and came back at 9 P.M. after having food from the programme. On coming home, he saw that the victim was not at home, after which they inquired with the people nearby and searched for her address. Next day morning, he came to know that their neighbour accused Deepak Maravi is also not at his home. Two days later, the accused' father and his brother left the victim near the village school at about 4.00 in the morning. In para 3 he has stated that after coming back home, the victim told her that accused Deepak had taken her to Karanjia at 9 P.M. while going to Karanjia, accused brother had come to pick her up and they had gone to Karanjia together.



**13.** It is clear from the perusal of the evidence that in this case, although the victims parents did not fully support the prosecution, but the victim has made a clear statement of taking her to Raigadhiya Tola, raping her there twice, leaving her near the school the next day and running away, which has not been refuted in cross-examination. The statement of the victim of rape is also confirmed by the statement of Dr.Renuka Samual. In this case, FSL of the victim's vaginal slides, panty and underwear of the accused has been done

and report Ex.P-35 is also attached to the case. In the report, semen stains and human sperm were found in panty Article “B” seized from the victim and underwear Article “C” seized from the appellant. The report is made on scientistic parameters and is reliable, which proves that physical relationship was established between the victim and the accused and the statements of the victim's parents in this regard are completely unreliable, whereas the statement of the victim is completely reliable.

**14.** It is proved that the victim was a minor girl at the time of the incident, hence, consent or disagreement regarding the incident is immaterial and no benefit can be given to the accused. It is also true that there is no mention of Chhatti function in the written report and there are some contradictions in the statements of the victim and her parents regarding coming and going from Chhatti function, but the cousins of the victim have also stated that there was Chhatti on the date of the incident. This confirms the statement of the victim in whose house the said Chhatti function was held. Hence, the benefit of this also cannot be given to the accused.



**15.** Thus, this Court finds that the prosecution has succeeded in proving the case against the accused / appellant and it has been proved that the accused abducted the proxecutrix with an intention to commit sexual intercourse and has committed sexual intercourse with her.

**16.** Smt.Sanjay Porte (PW-17) has stated in her deposition that on 23.09.2020 memorandum (Ex.P-28) was given to her by Outpost Incharge, Belgahna regarding providing dakhil-kharij register of the victim. On her presentation of dakhil-kharij register of Primary School, Chharpara, village Khongsara of the victim, it was seized by the police of Police Chowki Belgahna in front of witnesses vide seizure memo Ex.P-21. In para 3, she has stated that after the police obtained verified copy of dakhi-kharij register from her, the dakhil-kharij register was handed over to her. Today, she has brought the original dakhi-kharij register. In para 4 she has stated that in saral No.127/3.07.13 of dakhi-kharij register, name of the victim, name of the parents, caste, address, date of birth of the victim 26.05.2008 is written in words and figures.



**17.** The Supreme Court in the matter of **State of Chhattisgarh v. Lekhram** reported in **(2006) 5 SCC 736** has held that a register maintained in a school is admissible in evidence to prove date of birth of the person concerned in terms of Section 35 of the Evidence Act. It was observed as under:-

> "12. A register maintained in a school is admissible in evidence to prove date of birth of the person concerned in terms of Section 35 of the Evidence Act. Such dates of births are recorded in the school register by the authorities in discharge of their public duty. PW 5, who was an Assistant Teacher in the said school in the year 1977, categorically stated that the mother of the prosecutrix disclosed her date of birth. The father of the prosecutrix also deposed to the said effect."

**18.** Now, the question is as to whether the prosecutrix is coming under the purview of 'child' who is below the age of 18 years.

**19.** In this context, dakhi-kharij register (Ex.P-39) has been produced and as per dakhi-kharij register, date of birth of the prosecutrix is 26.05.2008 and therefore, at the time of incident i.e. 20.09.2020, the age of the prosecutrix is less than 18 years.

**20.** In **Jarnail Singh Vs. State of Haryana,** reported in **(2013) 7 SCC 263**, the Hon'ble Supreme Court laid down the guiding principles for determining the age of a child, which read as follows :



> **"22.** On the issue of determination of age of a minor, one only needs to make a reference to Rule 12 of the Juvenile Justice (Care and Protection of Children) Rules, 2007 (hereinafter referred to as the 2007 Rules). The aforestated 2007 Rules have been framed under Section 68(1) of the Juvenile Justice (Care and Protection of Children) Act, 2000. Rule 12 referred to hereinabove reads as under :
>
> > "**12. Procedure to be followed in determination of Age.?** (1) In every case concerning a child or a juvenile in conflict with law, the court or the Board or as the case may be the Committee referred to in rule 19 of these rules shall determine the age of such juvenile or child or a juvenile in conflict with law within a period of thirty days from the date of making of the application for that purpose.
> >
> > (2) The court or the Board or as the case may be the Committee shall decide the juvenility or otherwise of the juvenile or the child or as the case may be the juvenile in conflict with law, prima facie on the basis of physical appearance or documents, if available, and send him to the observation home or in jail.

(3) In every case concerning a child or juvenile in conflict with law, the age determination inquiry shall be conducted by the court or the Board or, as the case may be, the Committee by seeking evidence by obtaining –

> (a) (i) the matriculation or equivalent certificates, if available; and in the absence whereof;
>
> (ii) the date of birth certificate from the school (other than a play school) first attended; and in the absence whereof;
>
> (iii) the birth certificate given by a corporation or a municipal authority or a panchayat;
>
> (b) and only in the absence of either (i), (ii) or (iii) of clause (a) above, the medical opinion will be sought from a duly constituted Medical Board, which will declare the age of the juvenile or child. In case exact assessment of the age cannot be done, the Court or the Board or, as the case may be, the Committee, for the reasons to be recorded by them, may, if considered necessary, give benefit to the child or juvenile by considering his/her age on lower side within the margin of one year.

and, while passing orders in such case shall, after taking into consideration such evidence as may be available, or the medical opinion, as the case may be, record a finding in respect of his age and either of the evidence specified in any of the clauses (a)(i), (ii), (iii) or in the absence whereof, clause (b) shall be the conclusive proof of the age as regards such child or the juvenile in conflict with law.

(4) If the age of a juvenile or child or the juvenile in conflict with law is found to be below 18 years on the date of offence, on the basis of any of the conclusive proof specified in sub-rule (3), the court or the Board or as the case may be the Committee shall in writing pass an order stating the age and declaring the status of juvenility or otherwise, for the purpose of the Act

and these rules and a copy of the order shall be given to such juvenile or the person concerned.

(5) Save and except where, further inquiry or otherwise is required, inter alia, in terms of section 7A, section 64 of the Act and these rules, no further inquiry shall be conducted by the court or the Board after examining and obtaining the certificate or any other documentary proof referred to in sub-rule (3) of this rule.

(6) The provisions contained in this rule shall also apply to those disposed off cases, where the status of juvenility has not been determined in accordance with the provisions contained in sub-rule(3) and the Act, requiring dispensation of the sentence under the Act for passing appropriate order in the interest of the juvenile in conflict with law."



**23.** Even though Rule 12 is strictly applicable only to determine the age of a child in conflict with law, we are of the view that the aforesaid statutory provision should be the basis for determining age, even for a child who is a victim of crime. For, in our view, there is hardly any difference in so far as the issue of minority is concerned, between a child in conflict with law, and a child who is a victim of crime. Therefore, in our considered opinion, it would be just and appropriate to apply Rule 12 of the 2007 Rules, to determine the age of the prosecutrix VW-PW6. The manner of determining age conclusively, has been expressed in sub-rule (3) of Rule 12 extracted above. Under the aforesaid provision, the age of a child is ascertained, by adopting the first available basis, out of a number of options postulated in Rule 12(3). If, in the scheme of options under Rule 12(3), an option is expressed in a preceding clause, it has overriding effect over an option expressed in a subsequent clause. The highest rated option available, would conclusively determine the age of a minor. In the scheme of Rule

12(3), matriculation (or equivalent) certificate of the concerned child, is the highest rated option. In case, the said certificate is available, no other evidence can be relied upon. Only in the absence of the said certificate, Rule 12(3), envisages consideration of the date of birth entered, in the school first attended by the child. In case such an entry of date of birth is available, the date of birth depicted therein is liable to be treated as final and conclusive, and no other material is to be relied upon. Only in the absence of such entry, Rule 12(3) postulates reliance on a birth certificate issued by a corporation or a municipal authority or a panchayat. Yet again, if such a certificate is available, then no other material whatsoever is to be taken into consideration, for determining the age of the child concerned, as the said certificate would conclusively determine the age of the child. It is only in the absence of any of the aforesaid, that Rule 12(3) postulates the determination of age of the concerned child, on the basis of medical opinion."



**21.** A prosecutrix of a sex-offence cannot be put on par with an accomplice. She is in fact a victim of the crime. The Evidence Act nowhere says that her evidence cannot be accepted unless it is corroborated in material particulars. She is undoubtedly a competent witness under Section 118 and her evidence must receive the same weight as is attached to an injured in cases of physical violence. The same degree of care and caution must attach in the evaluation of her evidence as in the case of an injured complainant or witness and no more. What is necessary is that the Court must be conscious of the fact that it is dealing with the

evidence of a person who is interested in the outcome of the charge levelled by her. If the Court keeps this in mind and feels satisfied that it can act on the evidence of the prosecutrix. There is no rule of law or practice incorporated in the Indian Evidence Act, 1872 (in short 'Evidence Act') similar to illustration (b) to Section 114 which requires it to look for corroboration. If for some reason the Court is hesitant to place implicit reliance on the testimony of the prosecutrix it may look for evidence which may lend assurance to her testimony short of corroboration required in the case of an accomplice. The nature of evidence required to lend assurance to the testimony of the prosecutrix must necessarily depend on the facts and circumstances of each case. But if a prosecutrix is an adult and of full understanding the Court is entitled to base a conviction on her evidence unless the same is own to be infirm and not trustworthy. If the totality of the circumstances appearing on the record of the case discloses that the prosecutrix does not have a strong motive to falsely involve the person charged, the Court should ordinarily have no hesitation in accepting her evidence.



**22.** The Supreme Court in the matter of **Rai Sandeep alias Deenu v. State (NCT of Delhi), 2012 (8) SCC 21** held as under:-

> "22. In our considered opinion, the 'sterling witness' should be of a very high quality and caliber whose version should, therefore, be unassailable. The Court considering the version of such witness should be in a position to accept it for its face value without any

hesitation. To test the quality of such a witness, the status of the witness would be immaterial and what would be relevant is the truthfulness of the statement made by such a witness. What would be more relevant would be the consistency of the statement right from the starting point till the end, namely, at the time when the witness makes the initial statement and ultimately before the Court. It should be natural and consistent with the case of the prosecution qua the accused. There should not be any prevarication in the version of such a witness. The witness should be in a position to withstand the cross-examination of any length and howsoever strenuous it may be and under no circumstance should give room for any doubt as to the factum of the occurrence, the persons involved, as well as, the sequence of it. Such a version should have co-relation with each and everyone of other supporting material such as the recoveries made, the weapons used, the manner of offence committed, the scientific evidence and the expert opinion. The said version should consistently match with the version of every other witness. It can even be stated that it should be akin to the test applied in the case of circumstantial evidence where there should not be any missing link in the chain of circumstances to hold the accused guilty of the offence alleged against him. Only if the version of such a witness qualifies the above test as well as all other similar such tests to be applied, it can be held that such a witness can be called as a ‘sterling witness’ whose version can be accepted by the Court without any corroboration and based on which the guilty can be punished. To be more precise, the version of the

> said witness on the core spectrum of the crime should remain intact while all other attendant materials, namely, oral, documentary and material objects should match the said version in material particulars in order to enable the Court trying the offence to rely on the core version to sieve the other supporting materials for holding the offender guilty of the charge alleged."

**23.** The POCSO Act was enacted to provide more stringent punishments for the offences of child abuse of various kinds and that is why minimum punishments have been prescribed in Sections 4, 6, 8 and 10 of the POCSO Act for various categories of sexual assaults on children. Hence, Section 6, on its plain language, leaves no discretion to the Court and there is no option but to impose the minimum sentence as done by the trial Court. When a penal provision uses the phraseology "shall not be less than….", the Courts cannot do offence to the Section and impose a lesser sentence.



**24.** Considering the evidence of the prosecutrix (PW-1), evidence of Dr.Renuka Samuel (PW-8), MLC report (Ex.P-18), evidence of Smt.Sanjay Porte (PW-17), copy of dakhil-kharij register (Ex.P-39) and FSL report (Ex.P-35) in which semen stains and human sperm were found in panty Article "B" seized from the victim and underwear Article "C" seized from the appellant, we are of the considered opinion that it is the appellant who has taken the prosecutrix from her lawful guardianship with him and committed sexual intercourse on her on the false pretext of marriage knowing

well that the prosecutrix is a minor girl aged about 13 years. As such, the trial Court has rightly convicted the appellant for offence under Sections 363 & 366A of the IPC and Section 5(l)/6 of the POCSO Act and sentenced as mentioned above.

**25.** In the result, this Court comes to the conclusion that the prosecution has succeeded in proving its case beyond all reasonable doubts against the appellant. The conviction and sentence as awarded by the trial court to the appellant is hereby upheld. The present criminal appeal lacks merit and is accordingly **dismissed**.



**26.** It is stated at the Bar that the appellant is in jail. He shall serve out the sentence as ordered by the trial Court.

**27.** The Registry is directed to transmit the certified copy of this judgment along with the record to the trial Court concerned for necessary information and compliance.

Sd/-

(Sachin Singh Rajput)
**Judge**

Sd/-

(Ramesh Sinha)
**Chief Justice**

Bablu

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**CRA No. 250 of 2022**

Deepak Marawi @ Kallu

-Versus-

State of Chhattisgarh

**Head-Note**

If the totality of the circumstances appearing on the record of the case discloses that the prosecutrix does not have a strong motive to falsely involve the person charged, the Court should ordinarily have no hesitation in accepting her evidence.