

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No. 41 of 2015**

Dileshwari Satnami, D/o Kashiram Satnami, aged about 16 years R/o Village Lagara, Police Station Mungeli, District Mungeli (CG)

---- Appellant

Versus

1. Raj Kumar Patel, S/o Jhutel Patel, aged About 29 Years, R/o Village Lagara, Police Outpost Fasterpur, Police Station City Kotwali, Mungeli, District Mungeli Chhattisgarh
2. State of Chhattisgarh through The District Magistrate, Mungeli Chhattisgarh

---- Respondents

For Appellant:- Shri Dinesh Tiwari, Advocate.

For Respondent No.2/State:- Shri Neeraj Mehta, PL.

Hon'ble The Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order On Board**Per Navin Sinha, Chief Justice****15/07/2015**

1. The Respondent No.1 has been convicted under Sections 363, 366 and 376 IPC but acquitted of the charge under Section 3(2)(v) of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989 by the Special Judge (Atrocities), Bilaspur in Special Sessions Case No.18/13.
2. This acquittal appeal has been preferred by the father of the prosecutrix questioning the acquittal under the latter Act.
3. Learned Counsel for the Appellant submits that Respondent No.1 belonged to a higher caste and he exploited the status of the prosecutrix as belonging to the scheduled caste. The Appellant during investigation, has produced the caste certificate also.

4. We have heard Counsel for the State.
5. Section 3(2)(v) of the Act of 1989 reads as follows:-

commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine;

A bare reading of the statutory provision therefore requires the allegation that the offence was committed on the ground that the prosecutrix was a member of the scheduled caste.

6. In other words, there has to be evidence led by the prosecution that Respondent No.1 was fully aware of the caste status of the prosecutrix and deliberately took advantage to dominate over the person of that category and for that reason by establishing physical relations forcibly.

7. We have gone through the police statement of the prosecutrix as also her deposition in Court including that of her parents.

8. We find no reason to differ with the conclusions of the trial Judge in paragraph-34 that there was complete absence of any material or evidence for invoking Section 3(2)(v) of the Act of 1989.

9. We therefore, find no merit in this appeal against acquittal to that limited extent.

10. The appeal is dismissed.

(Navin Shiha)
CHIEF JUSTICE

(P. Sam Koshy)
JUDGE

