

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 312 of 2015**

State of Chhattisgarh, Through Police Station Jainagarh, District Surajpur,
Chhattisgarh.

---- Appellant.**Versus**

Sahis @ Naresh Ghasiya S/o Ramjatan Ghasiya, Aged about 27 years, R/o
village Sakalpur, Police Station Bhatgaon, District Surajpur Chhattisgarh.

---- Respondent

For Appellant : Shri Ashish Shukla, Government Advocate.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Order on Board**Per Navin Sinha, Chief Justice****11/09/2015**

1. Leave to appeal is sought against the order of acquittal dated 13.2.2015 of the Respondent in Sessions Trial No. 265 of 2012 by the First Additional Sessions Judge, Surajpur of the charge under Section 376 IPC.
2. Learned Counsel for the State submits that the prosecutrix has supported the allegations against the Respondent. There is no need for independent evidence and conviction can be based on the evidence of the prosecutrix herself. There is no reason or motive ascribed why prosecutrix would be falsely implicating him.
3. We have been taken through the evidence of the prosecutrix, PW-1, in support of the submission. Furthermore, she was taken to the hospital for a medical checkup within 24 hours. Dr. Suchita Nirmala, PW-4 only opined that force does not appear to have been used for committing the offence. It does not lead to any conclusion that the prosecutrix had not been violated.

4. We have considered the submissions.

5. Whether conviction will be sustainable on the solitary evidence of the prosecutrix under Section 376 IPC would depend on the facts of the case. If the evidence of the prosecutrix is consistent and cogent, appears reliable, conviction can be founded on it alone. But if doubts arise with regard to correctness and acceptability of the evidence of the prosecutrix, it will not be sufficient to found conviction.

6. According to the prosecutrix, assault on her was witnessed by her brother-in-law and sister, PW-2 and PW-6 respectively, both of them have not supported the allegations. Moreover, medical examination of the prosecutrix was done within 24 hours and neither was any semen found on the undergarment of the Respondent and the prosecutrix nor was any sign of any sexual intercourse found on the swabs taken from the prosecutrix.

7. We therefore find no reason to consider any enhancement of the sentence from the conviction ordered under Section 354 and 354A IPC. The application for leave to appeal is dismissed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE