

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 306 of 2015**

State of Chhattisgarh, Through Police Station Bhanupratappur, District North Bastar Kanker, Chhattisgarh.

---- Appellant**Versus**

Chandramouli Mishra S/o Pashupatinath Mishra, Aged about 40 years, R/o Salihapara, Bhanupratappur, Tahsil and District North Bastar Kanker, Chhattisgarh.

---- Respondent

For Appellant	:	Shri B. Gopa Kumar, Deputy Advocate General
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Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Order on Board**24/07/2015**

1. The present application for leave to appeal assails acquittal of the Respondent under Section 376 IPC by Learned Additional Sessions Judge, Uttar Bastar, Kanker in Sessions Trial No. 78 of 2014 dated 10.02.2015.
2. Learned Counsel for the State submits that the prosecutrix is sister-in-law of the Respondent. The evidence of the prosecutrix by itself was sufficient. The Trial Court erred in appreciation of her evidence in contradistinction to that of other witnesses to hold that there was an abnormal delay in lodging of the report. There is no reason why the prosecutrix, a married women would act in a manner to tarnish her own reputation unless allegations were correct. The weight to be given to the evidence of the prosecutrix in such cases stands well settled by judicial pronouncements.
3. We have considered the submissions.

4. Unless there has been grave miscarriage of justice or application of incorrect principles of criminal jurisprudence, an order of acquittal should not call for interference lightly. This would depend on the facts of each case. Undoubtedly, the evidence of the prosecutrix is entitled to weight. But it does not mean that notwithstanding lack of credibility of the evidence seen with all the surrounding circumstances, conviction must be based on the premise that the prosecutrix was not lying or she would not have taken the risk to lodge a false report and tarnish her own reputation.

5. The Learned Trial Judge has adequately marshalled the facts and appreciated the evidence on record coming to the conclusion that the complaint lodged in 2014 with regard to occurrences of the years 2007-2008 was highly belated. There was evidence of a family dispute between her and her husband vis-a-vis the Respondent including an altercation a day earlier to the FIR. The appreciation of the facts and consideration of the evidence in paragraph 16 by the Learned Trial Judge, in our opinion, is very well considered and calls for no interference.

6. The application for leave to appeal is dismissed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge