

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. No. 490 of 2015

State of Chhattisgarh, through Station House Officer, Police Station-AJK,
District Bilaspur (C.G.)

... Appellant

Versus

Vinayak Dewangan S/o Shri Shankar Lal Dewangan, age about 26 years, R/o.
Champa Dewangan Mohalla Police Station Champa, District Janjgir-Champa
(CG)

... Respondent

For Appellant : Mr. B. Gopa Kumar, Deputy Advocate General

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

Order On Board

Per Navin Sinha, C.J.

30/06/2015

1. I.A. No. 01 of 2015 has been filed to condone delay of 26 days in filing the Appeal against acquittal of Respondent, dated 30.1.2015, in Special Sessions Case No. 13 of 2014, under Section 376 IPC read with Section 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, passed by Special Judge (Atrocities), Bilaspur.
2. Learned Counsel for the Appellant submitted that if the Respondent established physical relations with the Prosecutrix on a false plea of marriage and he never intended to abide by the promise from its very inception, it did make out an offence under Section 376 IPC. Acquittal was not justified.

3. We have considered the submissions and perused the judgment of acquittal under Appeal.

4. The parties were known to each other since the days that they were studying in the Paramedical course at Mission Hospital, Bilaspur in the year 2005. According the Prosecutrix, they got married in accordance with Arya Samaj rights in 2008. The Respondent did not inform his family but nonetheless continued to meet the Prosecutrix and established physical relationship continuously over the years with her consent till she filed the present complaint leading to prosecution on 15.3.2014.

5. We find no reason to interfere with the order of acquittal and the conclusions arrived at by the Trial Court. The parties were adults who voluntarily of their own free will established physical relationship with each other ever long years. According to the Prosecutrix, they were already married. If the Respondent was not complying his marital obligations, she could appropriately have filed a suit for restitution of conjugal rights rather than to invoke the criminal law jurisdiction.

6. We find no reason to interfere with the order of acquittal. Limitation is condoned. The Appeal is dismissed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P.Sam Koshy)
Judge