

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P NO. 638 OF 2015**

State of Chhattisgarh, Through: Station House Officer, Police Station - Navagarh, District - Bemetara (C.G.)

... Applicant**Versus**

Harish Sharma @ Sonu, S/o Surendra Kumar Sharma, age 26 years, R/o Village Ghoghra, Police Station Navagarh, District -Bemetara (C.G.)

... Respondent

For Appellant	:	Mr. B. Gopa Kumar, Dy. Advocate General.
For Respondent	:	Ms. Sharmila Singhai, Advocate.

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

Order on Board**Per NAVIN SINHA, C.J.****07/09/2015**

1. The present appeal has been filed for leave to appeal against the order of acquittal dated 29.4.2015 by the Additional Sessions Judge, Bemetara, in Sessions Trial No. 40 of 2010 acquitting the Respondent of the charge under Section 376, 450 IPC.
2. Learned Counsel for the State submits that evidence reveals that the Prosecutrix would not have surrendered herself physically to the Respondent but for the false assurance of marriage held out by him. There was no unusual delay in lodging of the FIR as the victim, a young girl, would have faced social ignominy if the matter had been made public. It is only after she conceived that she was left with no option but to allow the truth to come in the open. The acquittal in the facts of the case was therefore not justified.

3. Learned Counsel for the Respondent opposing the application submitted that the alleged victim was medically examined and found to be 17-18 years of age with a margin of 2 years which makes her an adult. Physical relations were established between the parties more than once. It was not the case of the Prosecutrix that on both occasions she protested or tried to call for help. On the contrary, she was a consenting party. The Respondent was not the only boy visiting her house where she lived with her grandmother as her parents were living away. In her deposition, there is nothing to suggest that but for the assurance of promise given by the Respondent she would not have agreed for physical relations. On the contrary, in cross-examination, she has specifically admitted that it was the Respondent who told her that he would marry her, while there was no such opinion expressed by her in the matter.

4. In the entirety of the materials and the consideration by the learned Trial Judge, we find no reason to interfere with the order of acquittal as the physical relations between the parties who were adults from the evidence on record, appears to have been consensual in nature.

5. The application for leave to appeal is dismissed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge