

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No.14 of 2015**

Yukti Devi Sharma, W/o Late Ramashankar Sharma, aged about 34 years,
R/o Village Nanapuri, Police Station Kunda, Civil and Revenue District
Kabirdham (Chhattisgarh)

---- Appellant**Versus**

1. Heerapuri Goshwami, S/o Pratappuri Goshwami, aged about 29 years, R/o Village Nanapuri, Police Station Kunda, District Kabirdham (Chhattisgarh)
2. State of Chhattisgarh through District Magistrate, Kabirdham, District Kabirdham (Chhattisgarh)

---- Respondents

For Appellant	:	Shri Awadh Tripathi, Advocate
For Respondent No.1	:	Shri C.P.Lahare, Advocate
For State/Respondent No.2	:	Ms. Smita Ghai, Panel Lawyer

Hon'ble Shri Navin Sinha, Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Judgment on Board****Per Navin Sinha, Chief Justice****3/8/2015**

1. The present appeal has been filed against acquittal dated 9.1.2015 in Sessions Trial No.63/2014 by the Additional Sessions Judge (FTC), Kabirdham exonerating Respondent No.1 of the charge under Sections 376 and 506(B) of the Indian Penal Code.

2. Learned Counsel for the Appellant submits that delay by itself may not be fatal for a prosecution case under Section 376 IPC. There can be various reasons why the prosecutrix did not file the case earlier in time. This aspect of the matter has not been considered properly by the Trial Judge. There have been twice sexual assaults on her. She was compelled to lodge the FIR when the accused started to threaten her and the family.

3. We have considered the submissions on behalf of the parties.

4. What would be reasonable delay and whether delay would defeat the prosecution case including under Section 376 IPC would depend on the facts and circumstances of each case and no standard yardstick can be laid down with regard to the same. In the present case, the prosecutrix was aged about 34 years. She was allegedly first sexually assaulted on 22nd and again on 26th of July, 2014. The First Information Report was lodged one month and nine days after the latter assault. The Trial Judge has adequately considered the evidence on record with regard to the dispute between the accused and the sister of the prosecutrix. We fail to understand the link between threats held out to the prosecutrix and her family after which the FIR was lodged and that the sexual assault on the prosecutrix by itself was considered sufficient and relevant for lodging of the FIR at the very outset itself. All these raise a serious doubt with regard to the prosecution case and therefore we find no reason to interfere with the acquittal.

5. The acquittal appeal is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE