

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No. 60 of 2015**

Smt. Bhumika Mandlekar D/o Shri Gopichand Rawat Aged About 40 years R/O Qtr. No. H-100, Shanti Nagar, Irrigation Colony, Raipur, Civil & Revenue District Raipur Chhattisgarh

---- Appellant

Versus

1. Navin Mishra S/o Bipin Bihari Mishra Aged About 28 Years R/O Village Kulti, Tahsil & District Vardhman (West Bengal) at Present R/O Sai Hostel, Pandri, Raipur, Tahsil & District Raipur Chhattisgarh.
2. State Of Chhattisgarh Through Station House Officer, Police Station Civil Line, Raipur, District Raipur Chhattisgarh

---- Respondents

For Petitioner	:	Shri Indrasen Sahu, Advocate.
For Respondent/ State	:	Shri B. Gopa Kumar, Deputy Advocate General.

**HON'BLE SHRI NAVIN SINHA, CHIEF JUSTICE &
HON'BLE SHRI P. SAM KOSHY, J.**

Judgment On Board**Per NAVIN SINHA, C.J.****29/6/2015**

1. The present appeal filed through the High Court Legal Services Committee by the prosecutrix assails acquittal of the Respondent of the charge under Section 376 IPC read with Sections 3(ii)(v) and 3(i)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 as ordered on 24.12.2014 by the Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act in Special Sessions Case No. 27 of 2013.

2. Learned Counsel for the Appellant submitted that there was ample evidence against the Respondent under both the charges and

the trial Court has completely failed to appreciate the nature and quality of the evidence. The acquittal was not justified and therefore notice may be issued to the Respondent.

3. We have considered the submissions.

4. Respondent No.1 – Navin Mishra, aged approximately 28 years was engaged to give tuition to the son of the prosecutrix. The prosecutrix herself is stated to be approximately 40 years of age. The Learned Trial Judge has noticed the evidence of the prosecutrix that she had voluntarily established physical relations with Respondent No.1 after he had disclosed his age as 36 years and at this stage there was no any issue of caste between them. The fact of a voluntary physical relation therefore stood established. Respondent No.1 was much lesser in age, giving tuition to the son of the Appellant for payment and therefore the Appellant was in a dominating position. Her evidence was suspicious and not above board.

5. The relationship between the parties in this manner continued for approximately three years. The forensic report did not confirm that any semen stains on the clothes of the Appellant were that of Respondent No.1, concluding that it was a case of consensual physical relationship.

6. PW-3 Rishab Mandlekar, son of the Appellant deposed that there was a money dispute between his mother and Respondent No.1 with regard to the tuition fees and that Respondent No.1 would not

come regularly because of which the witness failed in the examination.

7. In the entirety of the matter and appreciation of the evidence by the trial Court, we do not find any reason to interfere with the order of the acquittal as there has been no miscarriage of justice from the evidence available on record.

8. The appeal is dismissed.

(Navin Sinha)
CHIEF JUSTICE

(P. Sam Koshy)
JUDGE