

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 572 of 2015**

The State of Chhattisgarh, Through District Magistrate, Raigarh, Chhattisgarh.

---- Appellant**Versus**

Manuraj Bareth S/o Makhanlal Bareth, Aged about 24 years, R/o village Dongiya, P.S. Malkharoda, District Janjgir-Champa, Chhatisgarh.

---- Respondent

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

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

Order on Board**Per Navin Sinha, Chief Justice****11/08/2015**

1. The present application for leave to appeal has been filed assailing the order of acquittal dated 3.2.2015 of the Respondent under under Section 376(1) IPC and Section 3(1)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, ordered by Special Judge (SC/ST Act), Raigarh, in Special Case No. 31 of 2014.
2. Learned Counsel for the State submits that the Learned Trial Court has not properly appreciated the evidence of the Prosecutrix that she had surrendered herself to the Respondent on his promise to marry her . If he had not held out such a promise, she would not have consented for physical relationship. If consent was obtained by deceit and she was exploited because she belonged to the Scheduled Caste, offence under the Penal Code and the latter Act was made out.
3. We have considered the submissions on behalf of the Appellant/State.
4. An order of acquittal should not lightly be interfered with unless there has been complete misappreciation of evidence leading to miscarriage of

justice. If two views are possible, then that beneficial to the accused has to be taken.

5. According to the prosecution case, the Prosecutrix was 24 years of age. Physical relations between the parties existed for over two long years. She was pursuing a course in ITI and the Respondent was her classmate. They developed affection for each other gradually, by exchange of their mobile numbers and conversations which followed. It does not appear from her evidence that when they established physical relations for the first time, she protested in any manner. The Prosecutrix acknowledged that he was a regular visitor to her house and they had repeatedly established physical relations. It is difficult to believe from the evidence on record that the Prosecutrix surrendered herself physically only on the express assurance of marriage. In paragraph 13 of her cross-examination, the Prosecutrix has acknowledged that she was aware that the Respondent was having a love affair with another but was hopeful that he would end that relationship to marry her. The Prosecutrix further acknowledged that she lodged the report only after the Respondent refused to marry her. If he had agreed, she would not have lodged the FIR.

6. On these materials, the Trial Court rightly came to the conclusion that the relationship was consensual between two adults, the Prosecutrix being 24 years of age knowing well the nature and consequences of her own actions.

7. We therefore find no reason to interfere with the order of acquittal based on proper appreciation of evidence including that of the Prosecutrix.

8. The application for leave to appeal is dismissed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE