

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 649 of 2015

Dr. Dhannuram Mandavi S/o Late Dashrathram Mandavi Aged About 31 years
Presently Posted As Post Graduate Medical Officer at RNT District Hospital
Kondagaon, R/o Village Chilputi, P.O. Girola, Tahsil & District Kondagaon Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Its Station House In-Charge, P.S. Kondagaon, Tahsil &
District Kondagaon (Chhattisgarh)

---- Respondent

For Applicant	-	Shri Sourabh Sharma, Advocate
For Respondent/State	-	Shri Manish Nigam, Panel Lawyer
For Objector	-	Shri Shivendra Bhardwaj, Advocate

Order On Board

13/08/2015

Heard.

1. The applicant is apprehending his arrest in connection with Crime No.175/2015 (wrongly mentioned as crime no.195/15 in the impugned order) registered at police station Kondagaon, District-Kondagaon (C.G.) for alleged commission of offence under Section 376 of IPC.
2. Prosecution case is that the applicant giving false promise of marriage committed rape on the prosecutrix.
3. Learned counsel for the applicant submits that it is a case of false implication and even if, entire story as narrated in the FIR and in the case diary statement of the prosecutrix is taken as it is, no case is made out. He submits that even according to the prosecutrix, they had developed an affair in the month of May, 2014 and out of their physical relation, prosecutrix became pregnant, which was later on aborted. A dispute arose as marriage could not materialized and community meeting had taken place on 24.05.2015 to resolve their

dispute. Thereafter, FIR has been lodged. Therefore, there is no element of commission of offence of rape as defined under Section 375 of IPC.

4. On the other hand, learned State counsel and Objector submits that committing sexual intercourse on the assurance of marriage was a false pretext, therefore, it cannot be said to be a case of free consent.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the contents of the FIR and the case diary statement of prosecutrix regarding her affair with the applicant since May, 2014 and she having sexual relation, became pregnant leading to abortion and then lodging of report in the police station on 29.06.2015 after meeting in the community where the applicant refused to marry with the applicant, the application is allowed.

6. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the arresting officer and the applicant shall abide by all the following terms and conditions -

- (i) that the applicant shall make himself available for interrogation by a Police Officer as and when required;
- (ii) that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any Police Officer.
- (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-

Manindra Mohan Shrivastava
J U D G E