

HIGH COURT OF CHHATTISGARH, BILASPUR

Acquittal Appeal No.30 of 2015

- Premlata Vaishnav, aged about 24 years, D/o Shri Bharat Das Vaishnav, R/O Mohlinebhatha, Katghora, Civil & Revenue District- Korba (C.G.)

---- Appellant

Versus

1. Shatruhan Das Vaishnav S/o. late Lakhandas, aged about 65 years, R/o Banjari, Police Station Bango, Civil & Revenue District Korba (C.G.)
2. State Of Chhattisgarh through Station House Officer, Police Station Bango, District Korba (C.G.)

---- Respondents

For appellant	:	Mr.Ram Kumar Tiwari, Advocate
For Respondent No.2	:	Mr.Sumit Jhanwar, Panel Lawyer

Hon'ble Shri Justice T. P. Sharma
Hon'ble Shri Justice Inder Singh Uboweja

Order On Board

20/04/2015

1. This is appeal under proviso to Section 372 of the Cr.P.C. against the judgment of acquittal dated 18.12.2014 passed by the Additional Sessions Judge, Katghora, in S.T.No.35/2014, whereby the trial Court has acquitted respondent No.1 i.e. father-in-law of the appellant of the charge under Section 376 of the IPC.
2. We have heard learned counsel for the parties, perused the judgment impugned and record of the trial Court.
3. Learned counsel for the appellant submits that the trial Court has acquitted respondent No.1 on the ground that F.I.R. has been lodged after one year, delay has not been explained properly and there are material contradictions and omissions in the evidence of the prosecution witnesses, but evidence of the prosecutrix has not been considered by the trial Court and thereby committed an illegality.

4. As per record of the trial Court, respondent No.1 is father-in-law of the appellant. F.I.R. has been lodged after about one year and prior to lodging the report, one criminal prosecution against respondent No.1 under Section 498A of the IPC has been tried.
5. Considering the evidence of the prosecutrix, evidence of other witnesses, unexplained delay in lodging the F.I.R. and non-disclosure of alleged fact of respondent No.1, the trial Court has acquitted respondent No.1 of the charge under Section 376 of the IPC.
6. On close scrutiny of the judgment impugned and record, we are unable to hold that only view convicting respondent No.1 was possible in the present case and view taken by the trial Court is erroneous.
7. Consequently, the appeal is liable to be and is hereby dismissed at the stage of admission itself.

JUDGE

JUDGE

B/-