

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 573 of 2015**

State of Chhattisgarh Through The Station House Officer, Police Station Sanna, District Jashpur (Chhattisgarh).

---- Applicant**Versus**

Sheetal Ram S/o Bahaal Ram, Aged About 32 Years, R/o Village Khamhari, Police Station Aasta, District Jashpur (Chhattisgarh).

---- Respondent

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

Hon'ble The Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Order On Board**Per Navin Sinha, Chief Justice.****18/08/2015**

1. I.A. No.1 has been filed to condone delay of 17 days.
2. Considering the duration, delay is condoned.
3. Leave is sought to appeal against the order of acquittal dated 22.01.2015 in Special Case No.11 of 2014 ordered by the Special Judge (Scheduled Caste/Scheduled Tribes Prevention of Atrocities) Jashpur of the charge under Sections 376(2), 506(II) IPC and 3(2)(5) and 3(1)(12) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
4. Learned counsel for the State submits that the prosecutrix belonged to the Scheduled Caste and was taken advantage of on false assurance

of marriage, but for which deceit she would not have surrendered herself physically to the Respondent. The trial court has erred in not appreciating the evidence of the prosecutrix properly that she allowed the Respondent in trust to live as tenant of which he took undue advantage to exploit her physically leading to her conceiving also. The order of acquittal calls for interference.

5. We have considered the submissions.
6. According to compliant lodged by the prosecutrix on 28.09.2013 she was working in the Angan Badi Kendra as Sahayak at Dabbara. The Respondent was a tenant in her premises since 2005-2006. He started exploiting her physically from 2007 on promise of marriage. The Respondent is further alleged to have simultaneously told her not to disclose to anyone that he was physically exploiting her otherwise he would kill her. In 2011 the Respondent married with another woman without telling the prosecutrix and stopped talking to her also. He returned on 13.02.2013 and asked for food. When the prosecutrix went to his house, he again physically exploited her by which she became pregnant. She did not inform anyone but informed her mother seven months after the occurrence. It is difficult to appreciate the medical examination in case of sexual misconduct conducted after seven months of the alleged occurrence.
7. In her deposition the prosecutrix acknowledged that the Respondent had established physical relations with her in 2007 on promise of marriage and then in 2013 he let her down by marrying another.
8. The prosecutrix in 2013 was approximately 24 years of age. Yet she acknowledges having told none in the village. She further acknowledges that after the Respondent married another woman she

had gone to the house of in-laws of the Respondent also and did not go to the police station.

9. The trial court analysing the evidence came to the conclusion that the prosecutrix and the Respondent were well known to each other and because of love and affection between them they went to the extent of establishing physical relations voluntarily. Not only that, the prosecutrix did not complain from 2007 till 2013 and even in 2013 she did not make any complaint for seven long months and appears to have woken up after she conceived and was aggrieved with the fact that Respondent had married with another. We see no reason to differ with the conclusion of the Trial Judge in paragraph 16 that the prosecutrix was an adult well aware of her own conduct and there is no evidence to establish that the Respondent had forcibly established physical relations with her against her will or by deceit. On contrary it was consensual in nature.
10. We do not find from the judgment under appeal that any allegation had been made by the prosecutrix to invoke provisions of the latter Act.
11. In the absence of any evidence that it was an act of deceit by the Respondent that she had surrendered herself physically, we see no reason to interfere with the conclusion of trial court that it was a consensual physical relations entered into voluntarily by two adults well aware of the consequences.
12. The application for leave to appeal is dismissed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P.Sam Koshy)
JUDGE