

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

MONDAY, THE 29TH DAY OF JUNE 2015/8TH ASHADHA, 1937

CRL.A.No. 1042 of 2011 ( )

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AGAINST THE JUDGMENT IN SC 298/2004 of COURT OF SESIONS, WAYANAD

APPELLANT(S)/COMPALINANT.:  
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STATE OF KERALA, REPRESENTED BY THE  
PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SMT.MAYA P.

RESPONDENT(S)/ACCUSED.:  
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PRAVEEN, S/O.ADHIRAJ,  
KALLUVAYAL.

BY ADV. DR.GEORGE ABRAHAM

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 29-06-2015,  
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**C.T. RAVIKUMAR, J.**

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**Crl.Appeal No.1042 OF 2011**

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Dated this the 29<sup>th</sup> day of June, 2015

**JUDGMENT**

This appeal is directed against the judgment of acquittal passed by the Court of Sessions Judge, Wayanad, Kalpetta in S.C.No.298 of 2004. The respondent herein was the sole accused therein and he was tried for the offences punishable under sections 376 and 506(i) of the Indian Penal Code (IPC) and 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities Act) (for short, 'the Act'). After evaluating the evidence, the trial court found that the prosecution had failed to establish the commission of the said offences by the accused and consequently, acquitted him under section 235(1) Cr.P.C.. The State filed the captioned appeal contending that the judgment of acquittal is the outcome of perverse appreciation of the evidence.

2. The case of the prosecution is that PW1, the prosecutrix who

was aged 20 years at the time of the incidents that led to the registration of crime No.200/2003 of Kumbalakkad Police Station was raped thrice by the respondent/accused. On 30.8.2003, while PW1 was waiting at Panamaram bus stand on her way back home at Palakkara Adiya Colony, the accused came there at about 12.00, in a jeep. He solicited the passengers and offered a local trip. Since the jeep was going towards the direction of her house, she boarded it. She was alone in that vehicle. On seeing the arrival of a bus, the respondent/accused started the jeep. She was taken to Neervaram and from there to an isolated place at Kallambalam from where the respondent/accused committed rape on her. After about two weeks, while PW1 was standing at Panamaram bus stand to go to her uncle's house at Koyileri, the accused came there in a jeep and asked her to come for a cinema in a theatre at Mananthavady. She was taken to Kattikulam and then to a forest and from there he committed rape on her for the second occasion. Again on 18.9.2003, from Panamaram, she was taken in an autorickshaw to the forest at Naikkuppa by the

accused and again he committed rape on her. To prove the case, the prosecution had examined PWs 1 to 20 and got marked Exts.P1 to P17 besides identifying MO1 and MO2. After the closure of the evidence of the prosecution, the respondent/accused was questioned under section 313 of the Code of Criminal Procedure. He denied all the incriminating circumstances put to him. Finding that the respondent/accused was not entitled to get acquitted under section 232 Cr.P.C, he was asked to enter on his defence. It is to be noted that earlier when PWs 1 and 8 were examined, the defence got marked contradictions as D1 to D5. Apart from the same, no other evidence was adduced by the respondent/accused in defence. After a careful evaluation of the evidence on record, the learned Sessions Judge found that the prosecution had failed to establish the charges against the respondent/accused. Consequently, he was found not guilty under any of the alleged offences and was acquitted under section 235 Cr.P.C. The captioned appeal has been filed by the State in the aforesaid circumstances.

3. I have heard the learned Public Prosecutor and the learned counsel for the respondent. As noted earlier, the prosecution had examined PW1 to PW 20 to prove the charges against respondent. PW1 is the prosecutrix. During the time of occurrence, she was aged 20 years. The evidence would reveal that she had studied upto 10<sup>th</sup> Std. She deposed that she belongs to Adiya community and the respondent/accused belongs to gowder community. She further deposed that on 30.8.2003, while she was waiting at Panamaram bus stand to go to her house situated at Palakkara Adiya Colony, the accused came there at about 12.00 in a jeep. He was seen offering a trip to the passengers who were waiting for the bus. Since the jeep was proceeding towards the direction of her house, she boarded it. PW1 deposed that she was alone in the vehicle and on seeing the arrival of a bus, the accused started the jeep and proceeded towards Neervaram and then stopped at an isolated place near old temple at Kallambalam. The accused caught her with force and dragged her to a coffee garden near the temple, made her lie there and after

disrobing committed rape on her. She has also deposed that when she cried aloud, the accused covered her mouth with his hands. She would also depose that the respondent threatened to kill her in case she disclose the incident to anybody. She has also deposed that thereafter in his jeep he dropped near her house. According to her, she did not disclose the incident to anyone owing to the threat made by the accused. Thereafter, while she was standing at Panamaram bus stand to go to her uncle's house at Koyileri, the accused came there in a jeep and asked her to accompany him for a cinema in a theatre at Mananthavady. She got into the jeep and the respondent took her to Kattikulam. She deposed that by placing his hands on her head, he told her that he would marry her and thereafter, took her to the forest and then, committed rape. Subsequently, on 18.9.2003, while she was standing at Panamaram bus stand, she found him in a jeep. He called an autorickshaw and took her to Naikkuppa. On reaching there, he asked Sunilkumar who was driving the autorickshaw to come there after an hour. After sending him away, he took her to the forest and

again committed rape on her. She also deposed that after the first incident, she has fallen in love with him and after the third incident, she came to know about the fact that he was spreading ill-news about her. Thereupon, according to her, she sent a letter through PW3, a photocopy of which was marked as Ext.P2, to the respondent/accused. The accused who had promised to marry her retreated from the promise and according to her, it is his action in spreading bad news about her that constrained her to give Ext.P1 F.I statement on 11.11.2003. Based on Ext.P1 F.I statement, crime No.200 of 2003 was registered at Kambalakkad Police Station and PW17 conducted a primary investigation. Going by the evidence of PW1, the respondent/accused committed rape on her thrice, within a span of one month. PW2 was the sister-in-law of PW1. She would depose that the entire incidents were revealed to her by PW1. However, PW2 did not specify the date on which the said incidents were disclosed to her by PW1. PW3 deposed that PW1 gave a letter to him for the purpose of handing over the same to the appellant and according to him, he

handed over the same to accused after taking its photocopy. The said photocopy was marked by the prosecution as Ext.P2. In this context, it is to be noted that earlier, while PW1 was being cross-examined, Ext.P2 was shown to her and she had denied the issuance of any such letter. When it was put to her, PW1 deposed that she had entrusted a letter to be handed over to the appellant, to PW3 and she has entrusted such a letter on coming to know that the accused was spreading some bad news about her. It is relevant to note that while being cross examined with respect to Ext.P2, PW1 deposed:-

“ഞാൻ പ്രീതികൈടുത്തിട്ടു സധനമല്ല  
4 കേളളാണ് ഞാൻ കൈടുത്തിട്ടത്”

4. PW4 is one Sureshkumar. Prosecution examined him to prove that it was he who had taken PW1 in his autorickshaw from Panamaram to Veliyambam when the alleged second incident occurred. Virtually, PW4 turned hostile to the prosecution. The relevant portions of his 161 statement were marked as Exts.P3 and P4. In this context, it is to be noted that PW1 deposed to the effect that

she was taken in an autorickshaw driven by one Sunil who was described by PW1 as “സൂനിയൻ”. PWs 5 and 6 are attesting witnesses respectively to Exts.P5 and P6 seizure mahazars. Though Pws 5 and 6 have admitted their signatures respectively in Exts.P5 and P6, they had deposed that they signed there without knowing the contents therein. Ext.P5 is the seizure mahazar in relation to Ext.P2. Ext.P6 seizure mahazar was prepared by PW17 in relation to the recovery of MO1 and MO2 which were the dresses worn by PW1 at the time of one of the incidents. PW7 is the Village Assistant who prepared Ext.P7 site plan in relation to the place where the incident allegedly took place for the first time. PW8 is the brother of PW1. He is the other attesting witness to Ext.P6 seizure mahazar. The relevant portion of his 161 statement was marked by the defence side as D5. PW9 is the attesting witness to Ext.P8 which is the scene mahazar regarding the second place of incident. PW11 is the attesting witness to Ext.P10 scene mahazar regarding the third incident at Naikkuppa. PW12 prepared Ext.P11 scene plan and PW13 village

officer issued Ext.P12 community certificate of the accused certifying that he belongs to Gowder community of Jaina Religion which is a forward class. PW14 is the then village officer of Periya and he prepared Ext.P13 regarding the scene of incident at Kattikulam. PW15 is the then Sub Inspector of Police, Kumbalakkad Police Station. He recorded Ext.P1 F.I.statement from PW1 based on which Ext.P1(a) FIR was registered. PW16 is the then Sub Inspector of Police, Mananthavady Special Mobile Squad who arrested the accused upon his surrender on 13.11.2003 before Kumbalakkad Police Station under Ext.P14 arrest memo. PW16 issued Ext.P15 potency certificate in respect of the accused. PW17, the then Deputy Superintendent of Police of Mananthavady, conducted the investigation. Exts.P8, P9 & P10 are the scene mahazars prepared by him in respect of the places where the incidents took place. He also deposed that he has taken into custody MO1 and MO2 under Ext.P2 mahazar and photocopy of Ext.P2 letter under Ext.P5 seizure mahazar. PW18 the Gynecologist attached to District Hospital,

Mananthavady who issued Ext.P16 report dated 12.11.2003 deposed that on 12.11.2003, he had examined PW1. PW1 revealed to PW18 that Praveenkumar had sexual intercourse with her with after assuring to marry her. Ext.P16 would reveal the statements made by PW1 to PW18, as hereunder:-

പ്രവീൺകുമാർ കല്യാണം കഴിക്കുമെന്ന് പറഞ്ഞ് കഴിഞ്ഞ പലദിവസങ്ങളിലും ബന്ധപ്പെട്ടത് ഇപ്പോൾ കല്യാണം കഴിക്കുന്നതാണെന്ന് വന്ന് പോലീസിൽ പരാതിപ്പെട്ടു. അതുകൊണ്ട് ബന്ധപ്പെട്ടത് ആഗസ്റ്റ് 30<sup>th</sup> ആണ്.

5. Since PW1 came for examination much after the alleged incidents, her vaginal smear and swab were not collected. PW18 would also note that the mental condition of PW1 was normal at the time of examination and that no injuries were noted at her private parts. PW19 who was the then DYSP, Special Mobile Squad completed the investigation and laid the final report. Evidence thus adduced by the prosecution were carefully considered by the trial court and it was after such consideration that the trial court arrived at the conclusion that the prosecution has failed to prove the charge

against the appellant and consequently, acquitted him under section 235(1) Cr.P.C..

6. A careful consideration of the evidence on record would reveal that the only direct evidence available in this case is that of PW1. No other witnesses had deposed that they had seen the incident and true that some of them deposed that they were told by PW1 regarding the incidents. In such circumstances, the question to be looked into is whether with the evidence of PW1 and the evidence of PW18 with Ext.P16, charge against the respondent could be held as proved conclusively. True that PW1 is the prosecutrix and she is the victim. The question is whether her version could be said to be trustworthy. The evidence of PW1 would reveal that she was raped on three different occasions. The first incident occurred when she was standing at Panamaram bus stand on 30.8.2003. She deposed that the respondent came there in a jeep and he offered a trip to the persons who were waiting there to Kallambalam. She got inside the jeep. Upon seeing that a bus was coming, he started the jeep and

proceeded with. According to her, he stopped the vehicle at Kallambalam and thereafter took her to an isolated place near the temple and committed rape on her. She deposed that after committing rape on her, when she attempted to cry aloud, he gagged her mouth. According to PW1, the accused committed rape on her on that day in between 2 p.m. and 2.30 p.m and he threatened her that she would be done away with in case she divulged the said fact to anybody. She also deposed that thereafter she was taken in the jeep and dropped at a place near to her house. She went to her house; but did not reveal the said fact to anybody. The evidence of PW1 would reveal that after about two weeks while she was waiting for bus at Panamaram to go to her uncle's house at Koyileri, the accused came there in a jeep. He invited her for seeing a cinema. She got inside the jeep. However, he did not stop the jeep at Manathavady and he stopped the jeep near a forest. She was taken inside the forest and he offered that he would marry her. According to her, he has sworn to that effect thrice by putting his hands on her head. According to her, thereafter he

committed rape on her between 3 p.m and 3.30 p.m. It is to be noted that she did not have a case that even when he took the vehicle beyond Mananthavady and took her to forest, she made a cry or shown any objection. According to her, the last incident occurred on 18.9.2003 while she was standing at Panamaram. She deposed that she saw the accused in a jeep and thereupon the accused called an autorickshaw and took her to a forest near Naikkuppa. Autorickshaw belonged to one Sunil. She further deposed that when they reached near the said place, the accused asked Sunil to come after an hour and thereafter took her to the forest and then committed rape on her. She would depose that she has yielded to his lust believing his assurance that he would marry her. Even though she was taken there in the autorickshaw and she was about to be taken to the forest near Naikkuppa, she did not have a case that she had attempted to escape from there or that she had sought help from Sunil. It is to be noted that while being cross examined, she deposed that at the second and third incidents, the accused had sexual intercourse with her consent.

According to her, he had virtually committed rape on her on the first instance. In such circumstances, the question is whether the action on the part of the accused in having sexual intercourse with PW1 on the first occasion at Kallambalam on 30.8.2003 would amount to rape and whether he had sexual intercourse with her on the other two occasions viz., after two weeks since 30.8.2003 after making her believing that he would marry her and thereby obtained consent for the purpose of having intercourse and if so, whether it would amount to rape under section 376 Cr.P.C. In this context, it is also to be noted that PW1 herself deposed that she had sexual intercourse with the accused on the second and third occasions with consent and she lodged the complaint only when she came to know that he was spreading bad news about her and thereby revealed his intention not to marry her. To consider whether her version is trustworthy, the contradictions marked while she was examined as PW1, have to be taken into account. To start with, the evidence of PW17, the investigating officer, would reveal that her statement under section 161 Cr.P.C is to

the effect that when she attempted to cry, the accused gagged her mouth. He would also depose that she had stated that the accused had threatened to do away with her life if she divulged the incident. Though she has stated that before indulging in sexual intercourse at Kallambalam, the accused offered to marry her and the said fact was divulged to the police, PW17 deposed that she had not divulged the fact that the accused had promised to marry her. Moreover, PW1 had stated that she had not stated to PW17 that the accused had taken her in an autorickshaw and committed rape on her at Naikuppa. She would depose:-

ഒരു ട്രിപ്പിൾ കോപ്പി, നെയ്തപ്പയിൽ പോയി  
അവിടെയും ബലാൽസംഗമെന്ന് എന്ന് പറഞ്ഞിട്ടില്ല  
അങ്ങനെ എഴുതിയതു ശരിയല്ല എന്നു പറി പ്രതി  
മേഴ്സായി പറഞ്ഞിരുന്നുവാണ് CW3 യിലൂടെ  
കത്തുകാട്ടുകൂട്ടിട്ടത് എന്ന് ഞാൻ  
പറഞ്ഞുകാട്ടുകൂട്ടിയിരുന്നു

PW17 would depose that she had not stated that she had sent a letter through PW3 solely because the accused had ill spoken about her. In the contextual situation, I will firstly examine the question whether

the incidents that allegedly occurred after two weeks since 30.8.2003 and then on 18.9.2003 could be said to be an act of rape committed by the accused in view of the oral testimony of PW1. As noticed hereinbefore, PW1 herself stated that it is incorrect to say that she was raped by the accused on those days. But at the same time, it is evident that she deposed that she yielded to his lust on those days believing his promise that he would marry her. It is also to be noted that PW1 deposed earlier that she was put under threat by the accused that in case she revealed the fact to anybody, she would be done away with. She deposed later that before the second incident, she had fallen in love with him. That apart, she has deposed in categorical terms that she made the complaint only because she came to know that the accused had ill-spoken about her. In that context, it is to be noted that though even according to PW1, the last incident occurred on 18.9.2003, she gave Ext.P1 FI statement on 11.11.2003 at 5.30 p.m. This delay has to be viewed seriously in the light of the nature of the oral evidence given by PW1. The learned Public Prosecutor relied on

a decision of the Hon'ble Apex Court in **State of U.P v. Naushad [AIR 2014 SC 384]**. That was a case wherein the accused allegedly committed sexual intercourse with the prosecutrix by giving false assurance that he would marry her. The Hon'ble Apex Court held that in such circumstances, it is to be noted that the consent of the prosecutrix was obtained under the misconception of facts and consequently, the action from the part of the accused was held as an offence under section 375, IPC punishable under section 376. The specific case of the prosecutrix therein was that accused is the son of her maternal uncle and he offered that he would marry her and by making such an offer, he made her to yield to his demand for having sex and he used to have regular intercourse with her under the said pretext. When she became pregnant, on coming to know about the details from the prosecutrix, her mother made proposal to arrange marriage with the accused and the accused has refused to accept the proposal on the ground that the prosecutrix was a girl of bad character. The trial court, after carefully scanning the evidence,

arrived at the conclusion that the accused obtained consent of the prosecutrix for sexual intercourse under misconception of facts that he would marry her, convicted the accused and that conviction was upturned by the High Court without properly assigning reasons for interfering with the sentence and conviction. It was in the said circumstances that the Apex Court reversed the judgment and restored the judgment of conviction entered against him by the trial court. In this case, it is to be noted that even PW1 did not have a case that at the first incident that occurred on 30.8.2003, the accused had sexual intercourse with her after making an offer to marry her. According to her, she was taken to an isolated place near a temple and he committed rape on her. A close scrutiny of her evidence would reveal that she got no case that she had resisted the attempt from the part of the accused with force and attempted to escape from his clutches. She would depose that after the incident she tried to cry aloud and then he covered her mouth with his hands and threatened her not to divulge the incident to anybody. It is thereafter that when she was invited for

seeing a cinema while she was standing at Panamaram bus stand waiting for bus to go to her uncle's house at Koyilery that she got inside the jeep taken there by the accused. PW1 would state that after the first incident, she had fallen in love with him. Admittedly, after the first incident, PW1 divulged the incident to nobody. According to PW1, the accused had not stopped the vehicle at Mananthavady; but proceeded the vehicle further and took her to a forest. Upon reaching inside the forest, he made the promise (even according to her) that he would marry her. The contention of the prosecutrix is that she had not divulged the rape committed by the accused owing to the threat posed by him. She had an occasion to raise alarm when she was invited by the accused and taken in the jeep from Panamaram and thereafter proceeding further without stopping the vehicle at Mananthavady. Evidently, PW1 did not have a case that any attempt to escape from the hands of the respondent was made by her and in fact, it is evident that she followed him without any demur. True that she got a case that before having sexual intercourse with her, on two occasions he

promised that he would marry her. It is thereafter on 18.9.2003 that the third incident allegedly took place. Going by the version of PW1, while she was standing at Panamaram bus stand, she saw the accused inside the jeep and on seeing her, he called an autorickshaw and came near her. She without any demur, stepped inside the autorickshaw driven by one Sunil and they reached the forest at Naikkuppa. It is the version of PW1 that when they reached near the forest in Naikkuppa, the respondent/accused asked Sunil to go back and to return after an hour. Though she was fully aware of the purpose for which she was taken inside the forest, she did not seek any help from Sunil and in fact, she did not have a case that she attempted to flee from there. Her evidence would reveal that she accompanied him in the forest and had sexual intercourse with him. The definite case of PW1 is that she lodged the complaint solely because after having sexual intercourse with her, the respondent/accused had allegedly spread ill-news about her. In the contextual situation, I am of the view that the decision relied on by the learned Public Prosecutor has

no relevance in this case. The learned counsel for the respondent relied on a decision of this Court in **Benny v. State of Kerala [2013 (3) KHC 796]**. That was a case wherein the definite case of the prosecutrix was that after the incident, the accused promised to marry her. This Court held that in such circumstances, it would not constitute misconception of facts so as to fall within the ambit of the offence of rape. In this case also, PW1 did not have a case that the respondent had sexual intercourse with her on 30.8.2003 after making any promise of marriage. Going by her version, he committed rape on her and thereafter, when she attempted to raise voice for help, he threatened her. If that is to be believed, PW1 has to offer an explanation for accompanying him in his jeep on the second occasion that took place two weeks after the first incident. Even according to her, she accompanied him on her own volition. Her case is that he invited for a cinema and she stepped into the jeep and thereafter he did not stop the vehicle at Mananthavady and took the vehicle to a forest near Kattikulam. She did not have a case that she raised any

alarm when he stopped the vehicle and invited her to come inside or even when she was taken inside the forest. Her version is that she yielded to his request to have sexual intercourse from there as he offered to marry her. It is to be noted that the incident took place just after two weeks from the alleged first incident. A close scrutiny of those incidents narrated by PW1 herself would reveal that she had not made even a feeble attempt to escape from him and virtually, the version of PW1 would reveal that she was a consenting party. As noticed hereinbefore, going by the version of PW1 herself, before the first incident, the respondent had not made any promise of marriage. In the contextual situation, it is relevant to refer to a decision in **Deelip Singh Alias Dilip Kumar v. State of Bihar [2005 (1) SCC 88]**. In the said context, it is relevant to refer to section 90 of the Indian Penal Code and it reads thus:-

**90.Consent known to be given under fear or misconception--**A consent is not such a consent as it intended by any section of this Code, if the consent is given by a person under fear of injury, or under a misconception of fact, and if the person doing the act knows, or has

reason to believe, that the consent was given in consequence of such fear or misconception; or

**Consent of insane person**--if the consent is given by a person who, from unsoundness of mind, or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or

**Consent of child**--unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

As relates the first incident, the prosecution could have canvassed the position that the consent of PW1 was obtained either under force or misconception. Even going by the version of PW1, she was put under threat only after the incident not to divulge the incident to anybody and there is no case for the prosecution that before indulging in sexual intercourse with her on 30.8.2003, the respondent/accused promised to marry her. In such circumstances, it is hard to believe that she would follow him on the mere invitation for seeing a cinema and thereafter travelling with him to a forest beyond Mananthavady without any demur and without making any hue and cry to gain attention of others. In the light of the aforesaid decision, the

prosecution has to canvass the position that consent was given by the prosecutrix believing the promise to marry her. If it is to fall within the expression 'without her consent', it has to be established that from the very inception, the accused never really intended to marry her and that a promise was made to her. Prosecution did not have a case that at any point of time, either PW1 or any of her relatives approached the respondent with a proposal for marriage and then he retreated from the promise. While considering the version of PW1, the evidence tendered by PW17 is also to be looked into. As noticed hereinbefore, he has categorically deposed that while recording the statement under 161, Cr.P.C, the prosecutrix had not divulged the incident that she was put under threat. So also, a promise to marry was given by the respondent. The said contradictions cannot be brushed aside. While considering the trustworthiness of PW1, these contradictions assume relevance. Coupled with the aforesaid circumstances, the evidence tendered by PW18 with Ext.P16 has also to be looked into. While going by the version of PW1, the last among the incident occurred on

18.9.2003 and the evidence of PW18 would reveal that she examined PW1 on 12.11.2003. If on the previous occasion sexual intercourse was done forcefully without the consent of PW1, there would have been some signs of such resistance on her body. PW18 would depose that there was absolutely no such signs on her body and also on her private parts. A close scrutiny of evidence of PW1 would reveal that on any of the occasions, she had not raised any resistance. The evidence thus obtained in this case would reveal that on none of the occasions, PW1 attempted to resist the action from the part of respondent to have sexual intercourse with her. As noticed hereinbefore, the version of PW1 itself would reveal that at the inception there was absolutely no promise to marry her. The nature of the evidence adduced in this case would reveal that virtually, PW1 was a consenting party to the sexual intercourse and it has to be held that the prosecution has failed to prove that on the first occasion, the respondent had sexual intercourse with PW1 with criminal force and without any consent and on the second and third occasions, consent

was obtained from her on promising to marry her. After a careful analysis of the evidence on record, the trial court found that the evidence of PW1 would not be sufficient to arrive at a guilt of offence under section 375 punishable under section 376 and 506(1) against the accused and consequently acquitted him under section 235(1) Cr.P.C. In any trial the presumption of innocence is available for the accused. In this case, the same was reinforced with his acquittal by the trial court after the trial. In such circumstances, in order to interfere with a judgment of acquittal, the appellant has to establish that there is manifest illegality occurred in the approach of the trial court or that the trial court had appreciated the evidence in an utterly perverse manner and the conclusions and findings entered into by the trial court are totally against the weight of evidence. In this case, the appellant has failed to establish any such grounds to compel this Court to invoke the appellate jurisdiction to overturn the judgment of acquittal. The upshot of the discussions is that there is absolute absence of any reason for interfering with the judgment of acquittal

entered in favour of the respondent herein by the trial court. In the result, this criminal appeal has to fail and accordingly, it is dismissed.

**Sd/-**

**C.T. RAVIKUMAR  
(JUDGE)**

**spc/**



