

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No. 467 of 2002**

Shyama Bai D/o Shri Lati aged about 20 years, R/o village Salheghori, Police Station Kunda, District Kawardha, Chhattisgarh

---- **Petitioner.****Versus**

1. Rajkumar Chandrakar @ Rajju Chandrakar, S/o Shri Kapilram Chandrakar, aged about 30 years, R/o village Salheghori, Police Station Kunda, District Kawardha, Chhattisgarh.
2. State of Chhattisgarh, Through: The Police Station Kunda, District Kawardha, Chhattisgarh.

---- **Respondents**

For Petitioner	: Shri Rakesh Pandey, Advocate.
For Respondent No. 1	: None.
For Respondent/State	: Smt. Smita Ghai, Panel Lawyer.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Order on Board**Per Deepak Gupta, Chief Justice****13/07/2016**

1. This criminal revision is directed against the judgment dated 17.07.2002 passed in Sessions Trial No. 369 of 2000 by the Additional Sessions Judge, Mungeli, Sessions Division, Bilaspur whereby the accused-Respondent No. 1 has been acquitted of the charge for having committed an offence punishable under Section 376 IPC.
2. The version of the complainant-prosecutrix is that the accused had sexual intercourse without her consent on three occasions and the accused also threatened to kill her in case she discloses this fact of rape to any person. The complainant thereafter got married to some other person. After her marriage, the husband discovered that the complainant was pregnant. He then

questioned her as to how at such an advance stage of marriage she got pregnant showing that she had conceived before the marriage had taken place. Then she allegedly complained to her husband that she had been raped by the accused. Thereafter, meeting of the Panchayat was called for and the Panchayat decided that the accused should keep the complainant as his wife. However, the accused did not keep the complainant as his wife and it was only then that she lodged the FIR.

3. The learned Court below on appreciation of the evidence came to the conclusion that sex if any was consensual in nature. The facts as elaborated above themselves clearly show that even as per the complainant, she had sex with the accused on three occasions. She is an adult lady. She did not complain about this to her family members or any other person. In fact, despite having sex with the accused, she got married with another person which also shows that the accused had not held out any promise of marriage to her. It was only after her husband discovered that she was pregnant, for the first time, the story of rape was brought out.

4. The learned Court below which had the benefit of observing the demeanor of all the witnesses, has come to the conclusion that there is no manner of doubt that the complainant had forceful sex with the accused. She in fact became pregnant and delivered a child. The prosecution, specially in case where the prosecutrix is aged above 18 years must prove not only that there was an act of sex and must also show that such act was forceful in nature and against the consent of the prosecutrix. In this case, consent is writ large. Therefore, we find no merit in this revision petition.

5. The revision petition is dismissed.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE