

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRR No. 299 of 2008**

- Lachhawantin Bai D/o Kartik Ram Maratha Aged about 19 years R/o Village-Pachari, Tahsil : Akaltara, Distt. Janjgir Champa (C.G.)

---- Petitioner**Versus**

1. Sanjay Kumar S/o Umashankar Naik Aged about 20 years, R/o Village Pachari, Police Station Akaltara, District Janjgir Champa (C.G.)
2. State of Chhattisgarh Through- Police Station Akaltara, Distt. Janjgir Champa (C.G.)

---- Respondents

For Petitioner	:	Shri PK Patel, Advocate
For Respondent-State	:	Shri Vivek Sharma, GA for the State

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board**01/07/2016**

1. Challenge in this criminal revision is to the judgment of acquittal passed by the trial Court, whereby respondent No.1/accused has been acquitted of the charges under Sections 366 & 376 (1) of the IPC.
2. The incident took place at about 1.30 P.M. on 15.06.2007. Father of the prosecutrix Kartik Rao (PW-3) lodged report of missing person on 18-6-07 and thereafter FIR was lodged on 10-7-07. It was the allegation of the prosecution that respondent No.1 abducted the prosecutrix by making her to ride the bicycle as pillion rider and took her to Akaltara from where they boarded a train to proceed to Bilaspur and reached Piparkhar via Kota. At

Piparkhar they stayed in the house of Bisahu Ram (DW-1). Thereafter they went to the house of one Vijay Kumar (PW-8) at village Moharkhar and stayed there as his tenants for about 18 days. The prosecutrix stated that in the house of Vijay Kumar (PW-8), respondent No.1 committed forceful sexual intercourse for 17 days on promise to marry.

3. In the statement of Kartik Ram (PW-3), he has stated that father of the accused and three other villagers came to his house on 28-6-07 and requested him to take back his daughter and Kartik Ram (PW-3) promised to bring back his son. This development was informed to the police but no action was taken. On 2nd July, 2007, the prosecutrix came back to her house and informed her father about the incident, however, the accused did not meet the father of the prosecutrix for marrying her, therefore, ultimately the report was lodged on 10-7-07.
4. it is not the case of the applicant that the prosecutrix was less than 16 years of age. In all material statement and documents her age is mentioned as 19 years. Thus, it is not a case where the prosecutrix being minor was enticed and subjected to forceful sexual intercourse on promise to marry but she was a grown up, mature and major girl.
5. In the statement of Vijay Kumar (PW-8), in whose house they stayed for about 18 days nothing has been brought by the prosecution to suggest that the accused had forcibly detained the prosecutrix in his house and that the prosecutrix was not happy. On the contrary, this witness states that the prosecutrix was behaving normal and was applying vermilion on her forehead to demonstrate as if she has married with the accused.
6. In view of the nature of evidence available on record, as discussed above,

we do not find that the trial Court has committed any such illegality or perversity in recording a finding that the prosecutrix was a consenting party. Since it is well settled that judgment of acquittal cannot be converted into a judgment of conviction in exercise of revisional power under Section 397 read with section 401 of the CrPC and there is nothing to indicate as to why the matter is required to be sent back to the trial Court for retrial, we do not find any substance in this criminal revision. For the foregoing, the criminal revision fails and is hereby dismissed.

Sd/-

Judge
Prashant Kumar Mishra

Sd/-

Judge
Chandra Bhushan Bajpai

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