

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 207 of 2016**

State of Chhattisgarh, Through District Magistrate, District Surguja, Chhattisgarh
---- Appellant

Versus

Raghuvir Singh S/o Madhu Singh, aged about 45 years, R/o village Kumharata,
 P.S. Darima, District Surguja, Chhattisgarh.
---- Respondent

For Appellant/State : Smt. Smita Ghai, Panel Lawyer.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Order on Board**Per Navin Sinha, Chief Justice****17/02/2016**

1. The present appeal assails acquittal of the Respondent from the charge under Section 376 (1) IPC dated 28.11.2015 by the Additional Sessions Judge (FTC) Surguja in Sessions Trial No. 53 of 2014.
2. Learned Counsel for the State submits that the allegations were serious. In case of sexual offences, statement of the prosecutrix is entitled to great weight and can also be sufficient alone to base conviction. The prosecutrix came home and informed her husband immediately. There has been no unreasonable delay in lodging of the FIR. The prosecutrix was aged about 35 years and merely because there may have been no sign of any violence or injury to her in the nature of sexual assault, it cannot be concluded absolutely that it was a false accusation and that the occurrence had never taken place.
3. We have considered the submissions.
4. The occurrence is stated to have taken place on 20.2.2014 in the mustard fields at 9:00 am approximately 200 meters from her house. The Respondent was none other than the elder brother of her husband. The prosecutrix claimed

that she came back home and told her husband and father immediately. The police station was barely at a distance of 10 KMs from the house of the prosecutrix. The FIR was lodged five days later on 25.2.2014. The prosecutrix explained the delay as having been occasioned due to consultation with family members as to what was to be done next. In the nature of the heinous allegations, the distance of the police station, we are of the considered opinion that the explanation sought to be urged for delay in lodging of the FIR cannot find legal approval as the explanation itself furnishes adequate evidence of it having been lodged after deliberations, consultations and embellishments. If the occurrence was at 9:00 am, she came back home immediately and informed her husband and father, it is difficult to appreciate what kind of consultations were taking place whether an FIR should be lodged or not if the prosecutrix had actually been physically violated as claimed by her. We find absolutely no error in the findings of the Learned Trial Judge that it was a highly suspicious circumstance.

5. The prosecutrix in her cross-examination has clearly acknowledged that there was a land dispute between her husband and her brother in law and they had also exchanged verbal abuses two days earlier to the occurrence as claimed.

6. According to the allegations, the Respondent chased and dragged the prosecutrix in the mustard fields, threw her on the ground forcibly, disrobed her undergarments. The Trial Judge has opined that if it was a mustard field, the ground was necessarily uneven and rough. In such a situation, if the prosecutrix had been forcibly assaulted by the Respondent, surely there would have been some kind of scratches, bruises if not injuries on her body visible externally.

7. The reasoning to our mind is very natural and logical and no fault can be found with it. The prosecutrix herself has acknowledged that she did not even shout for help when the Respondent was allegedly forcibly dragging her.

8. The law with regard to challenge to an order of acquittal is well established and it is not to be lightly interfered with unless there has been gross miscarriage of justice, misreading of evidence or findings are perverse. If the view taken by the Learned Trial Judge reveals appreciation and understanding of an ordinary prudent man in the facts and circumstances of the case and the the prosecution has not been able to establish its charge beyond reasonable doubt, this Court will not re-appreciate the entire evidence all over again in an acquittal appeal to arrive at a different finding to its own satisfaction.

9. The allegations of sexual assault against a person is a very serious matter. If levelled falsely, it can have disastrous consequences for a person made accused. The loss of reputation can never be compensated even if acquittal follows. The stigma may continue to attach to him in a common man's understanding that he may have got away in the maze of technicalities of the law only. There is no merit in the application. It is dismissed.

10. Let a copy of this order be sent to the Secretary, Government of Chhattisgarh, Department of Law and Justice, alongwith a copy of the order in CrMP No. 122 of 2016.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE