

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Revision No.844 of 2016**

Gajanand Singh @ Golu Singh Gond S/o Bhairo Singh Gond, Aged About 28 Years R/o Birbhata, Police Station - Malkharouda, Civil And Revenue District Janjgir Champa Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through District Magistrate, Raigarh, Civil And Revenue District Raigarh Chhattisgarh

-----Non-Applicant

For Applicants:	Shri Neeraj Kumar Mehta, Advocate.
For Non-Applicant/State:	Shri UKS Chandel, Panel Lawyer.

Single Bench: **Hon'ble Shri P. Sam Koshy, J**
Order On Board

9.9.2016

1. The present Revision Petition under Section 397/401 Cr.P.C has been filed challenging the framing of charge against the present Applicant, who has been prosecuted for the offence punishable under Sections 376 and 493 IPC and the charges in this regard have been framed vide order dated 23.7.2016 whereby, the offence under Section 376 IPC and in the alternative, Section 493 IPC has been framed against the present Applicant.

2. Assailing the said framing of charge, learned Counsel for the Applicant submits that it is a case where the statement of the prosecutrix itself clearly indicates that there was no valid marriage between the parties so as to bring home the offence under Section 493 IPC. Like wise, it is also submitted that taking into consideration the statement of the prosecutrix which clearly reflects that she was a consenting party to the physical relationship that was maintained between the prosecutrix and the Applicant and for this reason also, the offence under Section 376 IPC is not made out.

3. Learned State Counsel however opposed the Petition on the ground that the statement of the prosecutrix both under Section 161 as well as under Section 164 Cr.P.C clearly reflects that the Applicant has ravished her by maintaining a physical relationship on the pretext of marriage and that under the said pretext of marriage, the Applicant had stayed with her for a period of more than 2 ½ years and thereafter refused to maintain the relationship leading to the prosecutrix to file the present complaint.

4. Having considered the facts and circumstances of the case and also on perusal of the statement of the prosecutrix wherein, it has been reflected that in the entire case of the prosecutrix herself is that the Applicant had exploited her physically on the pretext of marriage and under the said pretext, he stayed with her for a considerable period of time and this cohabitation between the two itself is sufficient to prima facie bring home the offence under Section 493 IPC and having not married the prosecutrix in spite of staying with her for a period of 2 ½ years and having a physical relationship all along itself would also be sufficient to prima facie bring home the offence under Section 376 IPC.

5. Thus, for the reasons assigned, this Court does not find any illegality or infirmity on the part of the Court below in framing charges against the present Applicant and which calls for no interference. Accordingly, the instant Revision Petition, being devoid of merits, the same is rejected.

Sd/-
(P. Sam Koshy)
JUDGE