

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 60 of 2016**

Jyotsana Vastrakar D/o Shri Suresh Kumar Vastrakar, Aged about 29years, R/o
Imli Duggu By Pass Road, Sitamadhi, P.S. & Tehsil District Korba, Chhattisgarh.

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

1. State of Chhattisgarh, Through District Magistrate, District Bilaspur, Chhattisgarh.
2. Navin @ Bobby Vastrakar, aged about 27 years, R/o Magarpara, Near Marimai Mandir, Sirgitti, Near Railway Crossing, P.S. Sirgitti Bilaspur, District Bilaspur Chhattisgarh.

---- **Respondents**

For Appellant	:	Shri Adil Minhaz, Advocate.
For Respondent No.1	:	Ms. Madhunisha Singh, Panel Lawyer.

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

Order on Board**Per Navin Sinha, Chief Justice****22/01/2016**

1. The present application challenges acquittal of the Respondent No. 2 of the charge under Section 376 IPC dated 30.6.2015 by the Additional Sessions Judge (FTC) Bilaspur, in Sessions Trial No. 179 of 2013.
2. Learned Counsel for the Appellant submits that she trusted the Respondent No. 2 who had promised to marry her and surrendered herself physically for that reason. Had she known that Respondent No. 2 was putting forth a false promise she would never have consented. The consent was therefore obtained on the false pretext of marriage. It is possible that the Appellant reposed unwanted trust on Respondent No. 2 who had now retracted and was engaged to another.
3. We have heard Learned Counsel for the State Also.

4. According to the allegations, the Appellant was staying in a rented room at Bilaspur preparing for the Public Service competitive examination in 2008 when she met Respondent No. 2. Physical relations were established between them on 20.10.2008 for the first time. The Trial Judge has rightly held that there was no evidence that the Appellant had protested considering that she was a tenant and there were other inmates in the house also. Thereafter, physical relations was established between them on more than one occasion regularly till 2013 when the prosecution was filed. The Appellant, an adult aged 22 years, has deposed that she was well aware of what her responsibilities with regard to protection of her ownself was concerned. The Trial Judge therefore concluded that at no time, the Appellant was under any illusion with regard to what she was doing and the consequences of the same. It appears that the prosecution was instituted only when the Respondent No. 2 decided to marry someone else and got engaged.

5. Considering the duration from 2008 to 2013, when physical relations were established repeatedly between the parties, it is difficult to believe that on each occasion, Respondent No. 2 either held out a threat or held out a promise of marriage which in any event was accepted by the Appellant on each occasion. No evidence appears to have been led by the Appellant that from the very inception in the year 2008 itself, the Respondent No. 2 never had the intention to marry the Appellant. The Appellant contends that she had protested when physical relations were established for the first time but in her cross-examination she has accepted that she never complained to her landlord or other girls in the room or in the coaching class and was well aware that since they were still studying the question of their getting married simply did not arise at that time.

6. We consider the appeal wholly frivolous and dismiss the same.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE