

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P No. 318 of 2016**

Kekti Chouhan D/o Sukhdev Chouhan Aged About 31 Years Caste Gada, R/o Village Portha, P.S. - Sakti, District - Janjgir Champa Chhattisgarh.

---- Petitioner**Versus**

1. Shayam Rathor, S/o Komal Prasad Rathor Aged About 43 Years R/o Village Portha, P.S. Sakti, District Janjgir Champa Chhattisgarh.
2. State Of Chhattisgarh Through P.S. Schedule Caste & Schedule Tribe Welfare Janjgir, District Janjgir Champa Chhattisgarh.

-----Respondents

For Petitioner:

Shri FS. Khare, Advocate.

For State:

Shri UKS Chandel, Panel Lawyer.

Hon'ble The Chief Justice**Hon'ble Shri Justice P. Sam Koshy****Order on Board****Per Navin Sinha, Chief Justice****27/04/2016**

1. The present Petition has been filed assailing acquittal of Respondent No.1 from the charge under Section 376(1) IPC and Section 3(2)(v) of the Scheduled Castes/Scheduled Tribes (Prevention of Atrocities) Act, 1989 dated 9.9.2015 by the Special Judge, Janjgir-Champa in Special Sessions Trial No.81/2014.

2. Learned Counsel for the Petitioner submits that she was the Kotwar while Respondent No.1 was the Surpanch. He was therefore in a position to dominate her will and therefore forcibly established physical contact with her under a false promise of marriage but for which the Petitioner would not have agreed to establish physical relations with him.

3. We have considered the submissions.
4. The Petitioner is herself a married woman. She acknowledges a continued physical relation with Respondent No.1 over a long period of 5-6 years with awareness that he was a married man and not divorced from his earlier wife. The Petitioner herself was also married and claims customary divorce but has not produced or led any evidence of divorce in accordance with law under the Hindu Marriage Act.
5. The Petitioner was a Kotwar for which we are informed the minimum educational qualification was Class-VIII pass. She was therefore not an illiterate person. Literacy also has nothing to do with the chastity of a woman which is treasured by every woman irrespective of education. We fail to understand how the Petitioner suddenly cries foul when she voluntarily maintained a physical relationship with Respondent No.1 for over 5-6 long years fully aware of his marital status including her own. The Trial Judge has therefore adequately recorded that both sides were fully aware of their inability to solemnize their marriage with each other in view of their pre-existing marital status and yet the two consenting adults were attracted to each other physically.
6. We find no reason to interfere.
7. The application for leave to appeal is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(P. Sam Koshy)
JUDGE