

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 284 of 2016**

Om Prakash Singh S/o Vijay Shankar Singh Aged About 22 Years R/o
Mitra Vihar Colony, Tarbahar, P.S. Tarbahar, Bilaspur, Civil and Rev.
Distt. Bilaspur Chhattisgarh.

---- Petitioner**Versus**

1. State of Chhattisgarh Through Station House Officer, Police Station Tarbahar, District Bilaspur, Chhattisgarh.
2. Smt. Seema Saluja Aged About 35 Years R/o Dipupara, Near Durga Mandir, Tarbahar, Police Station Tarbahar, Bilaspur, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Rajeev Kumar Dubey, Advocate.
For Respondent/State	:	Shri Lav Sharma, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****16/11/2016**

1. The grievance of the petitioner in this petition is the filing of FIR dated 03.09.2015 by the respondent No.2 against him for the offence under Sections 376 and 493 IPC vide Crime No.262/2015 lodged at Police Station, Tarbahar, Bilaspur.
2. The present petition in its present form may not be maintainable for the reason that subsequent to the filing of present petition, the court below has proceeded further and even framed the charges against the present petitioner for the offence under Sections 376 and 493 IPC which is not under challenge before this court, and as such, in the absence of challenge to the framing of charge, the present petition in its present stage is not maintainable.

3. Even otherwise, the contention of the petitioner is that the registration of the FIR for the offence under Section 376 is bad in law for the reason that the prosecutrix herself assails the petitioner to have married her and thereafter had physical relationship, and therefore, the offence under Section 376 would not be made out.
4. The State counsel submits that in the FIR the prosecutrix has categorically stated that the petitioner has not performed marriage with her and always used to avoid the marriage on some pretext or the other and each time assuring the prosecutrix of very soon getting married and on this pretext of marriage, the petitioner is said to have physically exploited the prosecutrix and suddenly one morning i.e. on 10.08.2015 he left the company of the prosecutrix leading to the filing of FIR.
5. In the given facts and circumstances of the case, this court does not find any strong case made out by the petitioner for interfering with the lodging of the FIR or the filing of charge sheet and the revision petition being devoid of merit is liable to be and is hereby dismissed.
6. So far as offence under Section 376 IPC is made out or not, the said issue is a matter of evidence which has to be decided by the trial court after recording evidence of both the parties.

Sd/-
(P.Sam Koshy)
JUDGE