

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1080 of 2017

- State Of Chhattisgarh Through Station House Trikunda, Balrampur Ramanujganj Chhattisgarh.

---- Petitioner

Versus

- Mahendra Kumar S/o Ramvriksh Ram, Aged About 22 Years R/o Village Trikunda, Police Station Trikunda, District Balrampur Ramanujganj Chhattisgarh.

---- Respondent

For Petitioner/State	:	Shri Vivek Sharma, Govt. Advocate
For Respondent	:	None present

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Shri Justice Arvind Singh Chandel

Judgement on Board by Pritinker Diwaker, J.

25/10/2017

This petition has been filed under Section 378(3) of the Code of Criminal Procedure assailing the impugned judgment and order dated 18.05.2017 passed by the Additional Sessions Judge Ramanujganj Civil District Surguja in S.T. No. 5/2014 whereby the court below has acquitted the respondent of the offence under Sections 450, 506 & 376 IPC.

2. In the present case, prosecutrix (PW-1) is aged about 27 years. On 4.12.13, prosecutrix lodged FIR Ex.P-1 alleging that she was subjected to physical relation by the respondent since 15.02.13 and that respondent has refused to marry her, she lodged the report. After framing of the charge in relation to the above offence, prosecution has examined 11 witnesses including that of the prosecutrix. Statement of

the accused/respondent was also recorded under Section 313 Cr.P.C. in which he pleaded his innocence and false implication in the case.

3. By the impugned judgment, the trial Judge has come to the conclusion that there is inordinate delay in lodging the FIR and the prosecutrix appears to be a consenting party and has acquitted the accused/respondent.

4. We have heard counsel for the State/petitioner and perused the record.

5. Admittedly there is an inordinate delay of about 10 months in lodging the FIR and the said delay has not been explained by the prosecution as required under the law. From the statement of the prosecutrix it is further apparent that she was a consenting party. After considering all the aspects of the case, trial court has come to the conclusion that the offence under Sections 450, 506 & 376 IPC as alleged by the prosecutrix is not made out against the respondent.

6. After hearing counsel for the parties and considering the material available on record as well as the elaborate judgment impugned passed by the Court below, and being very much conscious of the existing legal position that in an appeal/revision against acquittal if two views are possible on the basis of the evidence led by the prosecution and the trial Court taking one view favoured the accused, reversion of the findings of acquittal by the appellate/revisional Court taking the other possible view into consideration, is not permissible in law, this Court is of the view that the judgment impugned acquitting the respondent/accused of the offence under Sections 450, 506 & 376 IPC is just and proper and does not call for any interference. Accordingly,

the leave as sought for by the petitioner for registration of appeal against the judgment of acquittal is hereby refused.

Petition is accordingly dismissed.

Sd/-

(Pritinker Diwaker)
Judge

Sd/-

(Arvind Singh Chandel)
Judge

suguna