

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No.430 of 2010**

- State Of Chhattisgarh Through Police Station Baikunthpur, Distt. Korea (CG)

---- Appellant**Versus**

- Dilip Uraon S/o Brijlal Uraon, aged about 22 years, Occupation Labour R/o Vill. Phulpur, PS Charcha, Tahsil Baikunthpur, Distt. Korea (CG)

---- Respondent

For Appellant/State	: Shri Arvind Dubey, Panel Lawyer
For respondent	: None present.

**DB: Hon'ble Shri Justice Prashant Kumar Mishra &
Hon'ble Shri Justice Ram Prasanna Sharma
Judgment On Board**

**Per Prashant Kumar Mishra, J
12.02.2018.**

Challenge in this acquittal appeal is to the judgment of acquittal dated 22.07.2005 passed by Additional Sessions Judge, Baikunthpur, Distt. Korea (CG) whereby the respondent has been acquitted of the charge under Section 376 of the Indian Penal Code mainly on the ground that the prosecutrix, aged about 24 years, was a consenting party.

2. Although FIR (Ex-P/1) was lodged within four hours of the incident, however, the FIR itself would project that when the respondent and the prosecutrix were in the midst of sexual intercourse, Naresh (PW-3) and Udayram (PW-4) reached to the spot and witnessed them. Respondent as well as Naresh (PW-3) happen to be the brothers-in-law (Devar) of the prosecutrix. At the

time of the incident, Naresh (PW-3) and Udayram (PW-4) were going towards the forest and heard some noise, therefore, they went inside the forest and found the respondent having sexual intercourse with the prosecutrix.

3. In her cross-examination, the prosecutrix would admit that if her brother-in-law would not have beaten her at the place of incident, she would not have disclosed the matter. In the FIR as well as in her examination-in-chief she has narrated the story as if she was forcibly raped by the respondent when she was going to school in search of her daughter. However, in cross-examination, she would admit that the school is located at a distance about 1 km on one side whereas the forest is on the other side. It would thus be clear that she had gone to the forest area of her own and not towards the school, as stated in the FIR and in the examination-in-chief.

4. Considering the entire evidence on record, finding recorded by the trial Court that the prosecutrix, a married lady, aged about 24 years, was a consent party to the act of sexual intercourse is perfectly drawn out from the record and the trial Court has not committed any illegality in rendering the impugned judgment of acquittal.

5. The acquittal appeal has no substance, which deserves to be and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Sd/-
Judge
(Ram Prasanna Sharma)