

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 157 of 2018**

- State of Chhattisgarh, through the Incharge Police Station Champa, District Janjgir-Champa (CG)

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

- Ramkumar Sahu, S/o Late Babulal Sahu, aged 26 years, r/o Indira Nagar, Janjgir, Police Station Janjgir, District Janjgir-Champa (CG)

---- **Respondent**

 For Petitioner/State :

 Shri Adil Minhaj, Panel Lawyer

Hon'ble Shri Pritinker Diwaker and
Hon'ble Shri Sanjay Agrawal, JJ.

Order On Board**25/04/2018****Per Pritinker Diwaker, J.**

1. Present petition, seeking leave to appeal, has been filed under Section 378(3) Cr.P.C. to assail the impugned judgment and order dated 02.11.2017 passed by the Additional Sessions Judge (FTC), Janjgir, Dist. Janjgir-Champa in S.T.No.37/2017 whereby the trial Court has acquitted respondent under Section 376 IPC giving him benefit of doubt.
2. As per prosecution case, on 28.03.2017 a written report (Ex.P.3) was lodged by the prosecutrix (P.W.2) alleging in it that on that day, i.e., 28.03.2017 at about 06.15 AM, when she was all alone in her house, the respondent/accused entered the house and committed sexual intercourse with her.

3. Based on this written report (Ex.P.3), F.I.R. (Ex.P.4) was registered against the respondent under Section 376 IPC and accordingly, the trial Judge has framed charge against respondent.
4. So as to hold the accused/respondent guilty, the prosecution has examined as many as 06 witnesses. Statement of the accused/respondent was recorded under Section 313 Cr.P.C., in which, he denied all the circumstances appearing against him and pleaded innocence and false implication.
5. By the impugned judgment, the trial Court had acquitted the respondent mainly on the ground that the prosecution has utterly failed to establish the fact that the respondent committed sexual intercourse with her against her own wish and sweet will.
6. We have heard learned counsel for the parties and perused the record.
7. In the Court, the prosecutrix (P.W.2) has completely turned hostile and has stated that no such incident of rape took place. She has further stated that on account of some family dispute, she lodged the written report (Ex.P.3) and that she was never subjected to rape. Considering the statement of prosecutrix, the trial Judge has acquitted the respondent giving him benefit of doubt.
8. After 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 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 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 Section 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.

9. Petition is accordingly dismissed at the admission stage.

Sd/-
(Pritinker Diwaker)
Judge

Sd/-
(Sanjay Agrawal)
Judge