

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P No.252 of 2018**

State Of Chhattisgarh Through The Incharge Police Station Kusmi, District
Balrampur Ramanujganj Chhattisgarh, District : Balrampur, Chhattisgarh

---- Petitioner**Versus**

Rohit Kumar Choudhary S/o Muneshwar Aged About 22 Years R/o Village
Ramkanda, Police Station Ramkanda, Kusmi, District Gadwa, Jharkhand
Present Address Kusmi Bazarpara, District Balrampur Ramanujganj
Chhattisgarh, District : Balrampur, Chhattisgarh

---- Respondent

For Petitioner/State:	Ravindra Agrawal, Government Advocate.
For Respondent:	None.

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Shri Justice Sanjay Agrawal
Order on Board

Per Pritinker Diwaker, Judge**26/04/2018**

1. The present petition has been filed under Section 378(3) of the Code of Criminal Procedure 1973 (for short, 'the Cr.P.C.'), assailing the impugned judgment of acquittal dated 10.11.2017 passed by the Additional Sessions Judge, Ramanujganj, Civil District Surguja (CG) in Sessions Trial No.299/2012 acquitting the accused/Respondent of the offence punishable under Sections 363, 366 and 376 IPC by giving him benefit of doubt.

2. Brief facts of the case are that on 4.6.12, a missing report was lodged by the father of the prosecutrix alleging in it that the prosecutrix is missing since 3.6.2012. She was recovered from the custody of the accused/Respondent on 19.6.2012 and based on her statement, First

Information Report (Ex.P-1) was registered against the accused/Respondent under Sections 363, 366 and 376 IPC. According to the prosecutrix, the accused/Respondent allured her on the pretext of marriage and took her to Shakti Nagar, Uttar Pradesh, where he had physical relation with her.

4. So as to hold Respondent guilty, the prosecution has examined as many as 11 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 his innocence and false implication.

5. By the impugned judgment, the trial Court has acquitted the accused/Respondent as the prosecutrix has not made any allegation of rape or abduction against the accused.

6. Learned Counsel for the Petitioner/State submits that the trial Court has erred in law in acquitting the accused/Respondent.

7. We have heard learned counsel for the State and perused the record carefully.

8. In the Court, the prosecutrix (PW-1) has not supported the case of the prosecution and has been declared hostile. She has stated that she was never taken by the accused/Respondent and he has not committed any such act with her. Based on the statement of the prosecutrix (PW-1) and further considering the fact that there was no legally admissible evidence showing the prosecutrix to be below 18 years of age, the trial Court has come to the conclusion that the

prosecution has utterly failed to prove the involvement of the accused/Respondent in the commission of the aforesaid offence and thereby acquitted him.

9. 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 opinion that the judgment impugned acquitting the respondent/accused of the offence under Sections 363, 366 & 376 IPC is just and proper and does not call for any interference. Accordingly, the leave as sought for by the Petitioner/State for registration of appeal against the judgment of acquittal is hereby refused.

10. Petition is accordingly dismissed at the admission stage.

Sd/-
(Pritinker Diwaker)
JUDGE

Sd/-
(Sanjay Agrawal)
JUDGE