

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P No.417 of 2018**

State Of Chhattisgarh Through- Police Station Dongargaon, District-
Rajnandgaon, Chhattisgarh.

---- Petitioner**Versus**

Keshoram S/o Jailal Kunjam Aged About 24 Years R/o- Village- Pandrapani,
P.S. Chhuriya, District- Rajnandgaon, Chhattisgarh.

---- Respondent

For Petitioner/State:

Shri Rahul Tamaskar, Panel lawyer.

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

Per Pritinker Diwaker, J.

16/05/2018

1. The present petition has been filed under Section 378(3) of the Code of Criminal Procedure 1973 (for short, 'the Cr.P.C.') seeking leave to appeal, against the impugned judgment of acquittal dated 13.10.2017 passed by the Additional Sessions Judge (FTC), Rajnandgaon (CG) in Sessions Trial No.5/2017 acquitting the accused/Respondent of the offence punishable under Sections 366, 376(2) and 506 IPC.

2. Brief facts of the case are that on 16.11.16, First Information Report (Ex.P-6) was lodged by the prosecutrix (PW-5), aged about 21 years alleging in it that on the pretext of marriage, she was subjected to sexual intercourse on number of occasions by the accused/Respondent and when she asked him to marry her, he started blackmailing her on the basis of the videos of their physical relationship. Based on this FIR, offence under Section 376 IPC was registered against the accused/Respondent.

3. So as to hold Respondent guilty, the prosecution has examined as many as 9 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.

4. By the impugned judgment, the trial Court held that neither the evidence of the prosecution witnesses nor the medical evidence could prove the fact that the prosecutrix (PW-5) was abducted and subjected to rape on the pretext of marriage as also to the threat of making her video public by the accused/Respondent and therefore, acquitted him of the charges punishable under Sections 366, 376(2) and 506 IPC as the prosecutrix has not supported the case of the prosecution and turned hostile.

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

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

7. In the Court, the prosecutrix (PW-5) has not supported the case of the prosecution and has been declared hostile. She has stated that she did not lodge any written report (Ex.P-5) and the same was written and submitted by her sister in the police station after obtaining her signature on a blank paper. She has further stated that she had physical relation with the accused with her consent and that she wanted to marry him.

8. After considering the material available on record as well as the elaborate judgment impugned passed by the trial Court 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, in the considered

opinion of this Court, reversion of the findings of acquittal would not be permissible in law. Accordingly, the judgment impugned acquitting the respondents/accused of the charges under Sections 366, 376(2) and 506 IPC is just and proper and does not call for any interference in this petition.

9. Accordingly, the leave as sought for by the State/petitioner for registration of appeal against the judgment of acquittal is hereby refused.

10. Petition is accordingly dismissed at the admission stage itself.

Sd/-
(Pritinker Diwaker)
Judge

Sd/-
(Sanjay Agrawal)
Judge