

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 594 OF 2018

State Of Chhattisgarh Through Police Station Rajpur District
Balrampur Ramanujganj Chhattisgarh.

---- **Petitioner**

Versus

Manohar @ Monu Yadav S/o Shri Roop Chand Yadav Aged
About 31 Years R/o Village Bagadi, Police Station Rajpur District
Balrampur Ramanujganj Chhattisgarh.

---- **Respondent**

For State/Petitioner : Shri Rahul Tamaskar, Panel Lawyer.

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

Order On Board

07/05/2018

Per Pritinker Diwaker, J.

1. Heard on I.A. No. 01/2018, an application for condonation of delay in filing this petition.
2. For the reasons mentioned in the application, the same is allowed. Delay in filing this petition is hereby condoned.
3. Also heard on admission.
4. 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 judgment dated 07/11/2017 whereby the respondent/accused has been acquitted giving him benefit of doubt.

5. By the impugned judgment dated 07/11/2017 passed in Special Sessions (Atrocities) Case No. 07/2015 by the Special Judge, Surguja (Ambikapur) C.G. under the Atrocities Act, 1989, the respondent/accused has been acquitted of the charges under Sections 450, 342, 376, 506 Part -II of the Indian Penal Code (for short 'IPC') and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Atrocities Act').
6. Brief facts of the case, are that, on the basis of written report (Ex. P-2) lodged by the prosecutrix (PW-2), offence under Sections 456 and 354 of the IPC was registered against the respondent/accused. It is alleged by the prosecutrix (PW-2) that on the pretext of drinking water, the respondent/accused entered into her house and to outrage her modesty, caught hold of her hands and arms and tried to remove her clothes. She has alleged that while the respondent/accused was doing the said act, her husband returned to the house and initially, respondent/accused tried to hide himself but was caught hold by her husband whereupon he requested him for pardoning. Subsequent to filing of the written report (Ex.P-2), the prosecutrix (PW-2) prosecuted her case and the respondent/accused was tried under Sections 450, 342, 376, 506 Part -II of the IPC and Section 3(2)(v) of the Atrocities Act.
7. So as to hold the respondent guilty, the prosecution has examined as many as 8 witnesses. Statement of the respondent/accused was recorded under Section 313 Cr.P.C., in

which, he denied all the circumstances appearing against him and pleaded innocence and false implication.

8. Learned counsel for the State/petitioner submits that the trial Court has erred in law in acquitting the respondent/accused.
9. We have heard learned counsel appearing for the State/petitioner and perused the record carefully.
10. The prosecutrix (PW-2) in her Court statement has stated that she has lodged the report under the pressure of her husband. She has further stated that while she was talking to the respondent/accused, her husband came and suspected her character. She has also clarified that the respondent/accused came to her house for booking a vehicle and for giving advance money to her husband. According to her, as she was asked by her husband to lodge a report to the effect that something had happened in his absence, she lodged the report. In the Court, as it appears from the evidence available on record, the prosecutrix (PW-2) has not supported the case of the prosecution and has turned hostile completely. Considering the statement of the prosecutrix (PW-2), the trial Court has come to the conclusion that no case, whatsoever, is made out against the respondent/accused and thus acquitted him of the charges levelled against him giving him benefit of doubt.
11. 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, this Court is of the opinion that reversion of the findings of acquittal would not be permissible in law. In this view of the matter judgment under challenge acquitting the respondent/accused of the charges under Sections 450, 342, 376, 506 Part -II of the IPC and Section 3(2) (v) of the Atrocities Act is just and proper and does not call for any interference in this petition.

12. Accordingly, the leave as sought for by the State/petitioner for registration of appeal against the judgment of acquittal is hereby refused.
13. Petition is accordingly dismissed at the admission stage itself.

Sd/-
(Pritinker Diwaker)
Judge

Sd/-
(Sanjay Agrawal)
Judge