

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 768 of 2018**

State of Chhattisgarh Through the In-charge Police Station Basantpur,
District Rajnandgaon (C.G.)

---- Appellant**Versus**

Vasudev Soni @ Vasudev Choudhary, S/o. Late Ishwar Prasad Soni, Aged
about 32 years, R/o. Ward No. 37, Sonarpara, District Rajnandgaon (C.G.)

---- Respondent

For the Appellant :- Mr. Ravindra Agrawal, Panel Lawyer

For the Respondent :- None.

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

Per Pritinker Diwaker, J
20/08/2018

1. Heard on I. A. No. 01/2018, application seeking condonation of delay in filing the present petition.
2. For the reasons mentioned in the application, the same is allowed and delay in filing the petition is condoned.
3. Also heard on admission.
4. The present petition has been filed by the State seeking leave to appeal under Section 378 (3) of the code of Criminal Procedure, 1973 assailing the judgment and order dated 26.10.2017 passed by Additional Sessions Judge, (FTC) Rajnandgaon (C.G.) in Sessions Trial No. 68/2017 acquitting the accused/respondent of the charge under Section 376(2) of the IPC.

5. Brief facts of the case is that on 24.07.2017 FIR (Ex.P/1) was lodged by the prosecutrix (PW-1) aged about 25 years, alleging in it that since last 4-5 years, she was having affair with the accused and since last 3 years they are also having physical relation. She has alleged that the accused/respondent has refused to marry with her and that she has been subjected to rape. Based on this written report, FIR (Ex.P/1) was registered against the respondent for the offence punishable under Section 376(2) of the IPC.

6. So as to hold the respondent guilty, the prosecution has examined 13 witnesses. Statement of the respondent/accused was also recorded under Section 313 of the Cr.P.C, wherein he pleaded innocence and false implication. By the impugned judgment the trial judge after hearing the parties and considering the entire material on record acquitted the accused/respondent.

7. Counsel for the State submits that the trial Court has erred in law while acquitting the respondent/ accused. He submits that on the basis of statement of the prosecutrix and the evidence, respondent/accused ought to have been convicted.

8. We have heard the parties and perused the records.

9. From the records, it is apparent that the prosecutrix (PW-1) has turned complete hostile and has not supported the case of the prosecution. Even mother and father of the prosecutrix (PW-1) have also not supported the case of the prosecution and they turned hostile.

10. Considering the statement of the prosecutrix and her age and other related evidence available on record, the trial Court has acquitted the respondent. We find no illegality in the order impugned acquitting the respondent /accused. The view taken by the trial Court appears to be justified and one of the possible view. The prosecution thus utterly failed in

proving its case beyond reasonable doubt and the trial Court was fully justified in recording the finding of acquittal which is based on proper appreciation of evidence available on record. That apart, the settled legal position that if two reasonable conclusion are possible on the basis of evidence on record, the appellate Court should not disturb the finding of acquittal recorded by the trial Court. Furthermore, in case of appeal against the acquittal the scope is very limited and interference can only be made if finding recorded by the trial Court is highly perverse or arrived at by ignoring the relevant material and considering the irrelevant ones. In the present case, no such circumstance is there warranting interference by this Court.

11. Accordingly, the CRMP preferred by the State/applicant is bereft of any substance, the same is liable to be and is hereby dismissed at the admission stage itself.

Sd/-
(Pritinker Diwaker)
JUDGE

Sd/-
(Vimla Singh Kapoor)
JUDGE

Santosh