

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 851 of 2018**

- State Of Chhattisgarh Through The Incharge, Police Station- Basantpur, District Rajnandgaon, Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Petitioner

**Versus**

- Nilkanth Sonkar @ Nilu Sonkar S/o Udal Sonkar, Aged About 28 Years R/o Indira Nagar, Basantpur, District Rajnandgaon, Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Respondent

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| For Applicant   | : | Shri Ravindra Agrawal, G. A. |
| For Respondent. | : | None                         |

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**Hon'ble Shri Justice Pritinker Diwaker**  
**Hon'ble Shri Justice Gautam Chourdiya**

**Judgment on Board****Per Pritinker Diwaker, J****20/06/2018**

1. The records have already been received. Default as pointed out by the Office is overruled.
2. Heard on admission.
3. 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 04.10.2017 passed by Additional Session Judge (FTC) Rajnandgaon in Sessions Trial No. 01/2016 acquitting the accused/respondent of the charges under Sections 342 & 376 of IPC.
4. Brief facts of the case are that on 27.10.2015 FIR (ExP/10) was

lodged by Prosecutrix (PW/8) aged about 25 years alleging in it that on 25.10.2015 when she was cleaning herself, the accused/respondent reached there and asked her to go up on the stairs and when she refused, she was dragged by accused/respondent and after bolting her in a room she was subjected to sexual intercourse. Based on this FIR (Ex.P/10), offence under Sections 342, 376 of IPC was registered against this respondent. While framing charges, the trial Judge framed charges against the respondent under Sections 342, 376 of IPC.

5. So as to hold the respondent guilty, the prosecution has examined 16 witnesses. Statement of the respondent/accused was also recorded under Section 313 of Cr.P.C. wherein he pleaded innocence and false implication. By the impugned judgment trial Judge after hearing the parties and considering the entire material on record acquitted the respondent.

6. Counsel for the State submits that the trial Court has erred law while acquitting the respondent and considered the facts that the prosecutrix has suffered injuries, accused/ respondent ought to have been convicted.

7. Prosecutrix (PW.8) in her cross-examination has admitted the fact in para 10 that she had gone with the accused after she being called by him and that upon being asked by Doctor she disclosed that she was having affair with the accused/respondent. She has further stated that she had gone to meet the accused/respondent in jail at least on three occasions. She has further stated that as she was having affair with the respondent, she did not want any action against

him and was never willing to send him to jail. She has also stated that with her consent, respondent made relations with her and that she had never offered any protest to such act of the accused.

8. Considering the statement of the prosecutrix and her age and other evidence available on records the trial Court has acquitted the respondent. We find no illegality in the order impugned acquitting the respondent. 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 has been 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 conclusions 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.

9. 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/-

**(Gautam Chourdiya)**  
**JUDGE**