

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****ACQA No. 188 of 2010**

1. State Of Chhattisgarh, through the District Magistrate, District Raipur (CG).

**---- Appellant****Versus**

1. Gulab Yadu, S/o Bhuneshwar Yadu, aged about 30 years, R/o village Sitapur, PS Palari, Dist. Raipur (CG).

**---- Respondent**


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For Appellant/State  
For Respondent

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Shri Bhaskar Payashi, Panel Lawyer  
Shri Prateek Sharma & Shri Tribid  
Bhattacharya, Advocates

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**Hon'ble Shri Justice Prashant Kumar Mishra****Hon'ble Smt. Justice Vimla Singh Kapoor****Judgment on Board****By****Prashant Kumar Mishra, J.****27/06/2018**

1. Challenge in this appeal is to the judgment of acquittal rendered by the trial Court acquitting the accused from the charges under Sections 450, 506 (Part-II) and 376 (1) of the Indian Penal Code.
2. The prosecutrix happens to be about 40 years of age. In the First Information Report (Ex.P/4) (FIR) lodged on

30-4-2006, it was reported that about three years back the accused forcibly entered the house and finding the prosecutrix alone committed forcible sexual intercourse by criminally intimidating her and thereafter, the said act of the accused continued in the same manner for number of years. In her case diary statement (Ex.D/3) recorded on the same date the incident is said to have happened on 31-1-2003. When the prosecutrix was examined during trial she stated that on the 18th day of summer month of the year 2002 the accused committed forcible sexual intercourse for the first time and thereafter had continued for several years. She further stated that the illegal act of the accused was informed to her husband on 31-1-2003. The record contains one *Istgasa* (Ex.D/2) reducing information that a dispute took place between the accused and the husband of the prosecutrix for which a panchayat meeting was convened and thereafter both the parties engaged in altercation and manhandling with each other on 31-1-2003.

3. In view of the above prosecution case and the evidence, it appears some altercation and manhandling happened between the accused and the husband of the prosecutrix on 31-1-2003, which is exactly the date on which she was

subjected to forcible sexual intercourse. Moreover, as per her Court statement the first sexual encounter took place in the summer month of the year 2002, which was informed to her husband on 31-1-2003 and thereafter, the FIR was lodged on 30-4-2006. Thus, not only there is a considerable delay in lodging the FIR but there is serious doubt as to whether at all any offence of forcible sexual intercourse has taken place on 31-1-2003.

4. The prosecutrix being a grownup/matured lady, aged about 40 years; considering the delay in lodging the FIR; and dispute between the accused and the husband of the prosecutrix, the trial Court has not committed any illegality or irregularity while acquitting the accused from the charges under Sections 450, 506 (Part-II) and 376 (1) of the Indian Penal Code.
5. In the result, the acquittal appeal, *sans* merit, is liable to be and are hereby dismissed.

Sd/-

Sd/-

Judge  
(Prashant Kumar Mishra)

Judge  
(Vimla Singh Kapoor)

