

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 876 of 2018**

1. Neeta Dehre, wife of Vyasharayan, aged about 25 years, Caste-Satnami, R/o Sukhatal, P.O. - Dhengabhar, Tahsil- Bemetara, P.S.- Dadhi, Distt.- Bemetara (Chhattisgarh).

---- Petitioner**Versus**

1. Vyasnarayan, S/O Bhawani, aged about 32 years, R/o Village Sukhatal, P. S. Dadhi, Distt.- Bemetara (Chhattisgarh).
2. State of Chhattisgarh, through police Station Dadhi, Distt.- Bemetara (Chhattisgarh).

---- Respondents

For Petitioner	:	Ms. Ranjana Jaiswal, Advocate
For Respondent	:	None for others.

And**CRMP No. 1903 of 2018**

1. State of Chhattisgarh, Through the District Magistrate, Distt.- Bemetara (Chhattisgarh).

---- Petitioner**Versus**

1. Vyasnarayan, S/O Bhawani, aged about 32 years, R/o Village Sukhatal, P. S. Dadhi, Distt.- Bemetara (Chhattisgarh).

---- Respondent

For Petitioner/State : Shri Neeraj Mehta, Panel Lawyer
For Respondent : None.

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

Judgment on Board

Per Pritinker Diwaker, J.

14/09/2018

1. As these two petitions filed under Section 378(3) of Cr.P. C. arise out of a common judgment, they are heard together and being disposed of by this Common order.
2. Both the petitions are time barred and applications have been filed seeking condonation of delay in filing these petitions.
3. For the reasons mentioned in the applications, the same are allowed.
4. Delay in filing the CRMPs is condoned.
5. Heard on admission.
6. The present petitions have been filed assailing the judgment and order dated 16.03.2017 passed by Additional Sessions Judge (FTC), Bemetara in S. T. No. 01/2016 acquitting the accused/respondent of the charge under Section 376 of Indian Penal Code.
7. According to prosecution case, on 24-4-2007, FIR (Ex- P/1) was lodged by prosecutrix (PW-1) aged about 15 years alleging in it that since last about six months she was being subjected to physical relation by the accused on pretext of marriage. She has further alleged that she became pregnant and when the accused refused to marry her, the occasion for lodging the report arose. Based on this FIR Ex.P/1, offence under Section 376 of IPC was registered against the accused. After investigation charge sheet

was filed and while framing charge, the trial Judge has framed charge against the accused/respondent under Section 376 of IPC.

8. So as to hold the accused/respondent guilty, the prosecution has examined as many as 7 witnesses. Statement of the accused/respondent was also recorded under Section 313 of Cr.P.C. in which he denied the circumstances appearing against him in the prosecution case, pleaded innocence and false implication.
9. The trial Court after hearing counsel for the respective parties and considering the material available on record has acquitted the accused/respondent mainly on the ground that the prosecutrix was the consenting party to the act of the accused/respondent and that there is no legally admissible evidence on record showing her to be the minor. Hence, these petitions for leave to appeal.
10. Learned counsel for the complainant and State submit that the trial Court has erred in law in acquitting the accused/respondent.
11. We have heard learned State counsel and counsel for the complainant and perused the material available on record.
12. From the statement of the Prosecutrix (PW-1) it is apparent that she had physical relation with the accused on many occasions and there is inordinate delay of about six months in lodging the FIR. Even the Panchayat Meeting was also called and despite settlement, the parties could not live together. There is no legally admissible evidence on record showing the prosecutrix to be minor.
13. Considering the overall all facts and circumstances of the case in particular the evidence related to age of the prosecutrix and her conduct during commission of the alleged act and subsequent thereto, the trial court has come to the conclusion that the prosecutrix was a consenting party to the act of the accused and thus acquitted the accused/respondent. We find no illegality in the

judgment 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.

14. Accordingly, the CRMPs preferred by the complainant and State/applicant are bereft of any substance, the same are liable to be and are hereby dismissed at the admission stage itself.

Sd/-

(Pritinker Diwaker)
JUDGE

Sd/-

(Gautam Chourdiya)
JUDGE