

HIGH COURT OF CHHATTISGARH, BILASPUR

ACQA No. 220 of 2017

1. State Of Chhattisgarh Through District Magistrate, Ambikapur,
District Surguja, Chhattisgarh

---- Appellant

Versus

1. Rajendar @ Kenda, S/o Baisakhu Pando, Aged About 50 Years
R/o Village Bandha, Police Station Lakhanpur, District Surguja,
Chhattisgarh

---- Respondent

For Appellant/State
For Respondent

Shri Anil Pillai, Dy. Adv. General
Ms. Laxmi Tondey, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Hon'ble Smt. Justice Vimla Singh Kapoor

Judgment on Board

By

Prashant Kumar Mishra, J.

18/07/2018

1. State has preferred this acquittal appeal challenging the acquittal of the respondent from the charges under Sections 450, 323 & 376 of the Indian Penal Code.
2. Prosecutrix (PW-3) is a married lady, aged about 46 years. She lodged the First Information Report (FIR) (Ex.P/4) at 12.05 hours on 11-4-2014 for an incident of forcible sexual intercourse happened on 10-4-2014 at 6.00 am.
3. On a reading of the statement of the prosecutrix and her daughters namely; Sheela (PW-4) & Sushila (PW-5) it appears, at the time of incident Sheela (PW-4) & Sushila (PW-5) were not in the house and the prosecutrix was sleeping. At this point of time,

the appellant entered the house and committed forcible sexual intercourse while the prosecutrix was asleep as, as per her own statement, she awoke after the sexual intercourse was performed on her by the accused.

4. During cross-examination prosecutrix would admit that she did not lodge the report throughout the day on 10-4-2014, however, when wife of the accused sent few persons to assault her on 11-4-2014 she lodged the report on persuasion by some members of the locality.
5. In the above state of evidence, the trial Court has found that the statement of the prosecutrix does not inspire confidence to hold that any such incident of forcible sexual intercourse has occurred and in the alternative, the trial Court would hold that even if any such incident has taken place, the prosecutrix was a consenting party.
6. We have carefully studied the entire evidence, however, still we are unable to hold that the findings recorded by the trial Court for acquitting the accused suffer from any perversity or procedural irregularity. Mere reading of the statement of the prosecutrix would discern that she is unfolding a dramatised story which, on the face of it, appears to be unbelievable. There is no substance in this appeal, which fails and is hereby dismissed.

Sd/-

Sd/-

Judge
Prashant Kumar Mishra

Judge
Vimla Singh Kapoor