

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1863 of 2018

- State Of Chhattisgarh Through- Police Station Bemetara, District- Bemetara, Chhattisgarh., District : Bemetara, Chhattisgarh

---- Petitioner

Versus

- Roman Verma S/o Bhulau Verma Aged About 25 Years R/o- Village Jiya, Police Station Bemetara, District- Bemetara, Chhattisgarh.,

---- Respondent

For Petitioner	: Shri Anil Pillai, Dy.A.G.
For Respondent	: None present

Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Rajani Dubey

Order On Board By Rajani Dubey,J.

29/11/2018

This petition has been filed under Section 378(3) of the Code of Criminal Procedure assailing the impugned judgment and order dated 10.07.2018 passed by the Additional Sessions Judge Bemetara, District Bemetara in S.T. No. 58/2016 whereby the court below has acquitted the respondent of the offence under Sections 450 & 376 IPC.

2. Learned State counsel argues that the trial court committed gross illegality and perversity in acquitting the respondent/accused only because the statement of other witnesses have not proved the case and the prosecutrix and her husband were not traceable and their statement has not been recorded, therefore, the respondent/accused has been acquitted.

3. We find that the learned trial court found the case of the prosecution not proved beyond reasonable doubt in view of the fact that the statements of prosecutrix and her husband have not been recorded because they were not traceable and also the statements of the independent witnesses, learned trial court acquitted the respondent/accused.

4. Considering the evidence on record and in the absence of statement of the prosecutrix as well as the elaborate judgment impugned passed by the Court below, and being very much conscious of the existing legal position that in an appeal against acquittal if two views are possible on the basis of the evidence led by the prosecution and the trial Court has taken one view favouring the accused, reversal of the findings of acquittal by the appellate/revisional Court taking the other possible view into consideration, is not permissible in law, this Court is of the view that the judgment impugned acquitting the respondent/accused of the offence under Sections 450 & 376 IPC is just and proper and does not call for any interference. Accordingly, the leave as sought for by the petitioner for registration of appeal against the judgment of acquittal is hereby refused. Petition is dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge