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HIGH COURT OF CHHATTISGARH, BILASPUR

Acquittal Appeal No.149 of 2014

- Ku. Arti Verma D/o Ganesh Verma Aged About 19 Years R/o Village Hatraka, PS Khamhariya, Tah., Civil And Rev. Distt. Bemetara (C.G.)

---- Appellant

Versus

1. Raju @ Rajesh Verma S/o Tekhan Singh Verma Aged About 26 Years R/o Village Hatraka, PS Khamhariya, Tah., Civil And Rev. Distt. Bemetara (C.G.)
2. The State Of Chhattisgarh Through The Police Station Thana Khamhariya, Tah., Civil And Rev. Distt. Bemetara C.G.

---- Respondents

For Appellant : Shri PP Sahu, Advocate
For respondent No.1 : Shri YC Sharma, Advocate
For respondent No.2/State : Shri Avinash K Mishra, PL

DB: Hon'ble Shri Justice Prashant Kumar Mishra &

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

03.01.2018.

Challenge in this acquittal appeal is to the judgment of acquittal passed by the trial Court acquitting respondent No.1 for the charges under Sections 376 and 506B of the Indian Penal Code.

2. We have heard learned counsel for the parties and perused the record.

3. The FIR was lodged by the prosecutrix, aged about 19 years, on 08.5.2013 alleging that about 2 months prior to the date of lodging the FIR, she was ravished by the accused. In her statement recorded under Section 161 CrPC, she would inform the police that she had an affair with the accused for about 3

years and that the act of forcible sexual intercourse was committed by the accused two months prior to lodging of FIR and also on one more prior occasion. When examined in the Court, she would depose that the accused threatened her and committed sexual intercourse on the promise to marry. Further in cross-examination she would state that report was lodged by her brother and that she had not read the contents of the FIR nor she was made aware of the contents and that she put her signature on the FIR on the asking of her brother.

4. Based on this evidence, the trial Court has concluded that the prosecutrix appears to be a consenting party and further that the FIR is delayed by about two months and there is no proper explanation for delay in lodging the FIR.

5. Having minutely gone through the evidence, we are not in a position to take any different view of the matter. As discussed above, there is delay in lodging the FIR and there appears to be an affair between the prosecutrix and the accused. Her date of birth is stated to be 07.02.1995, therefore, on the date of lodging the FIR, she was more than 19 years of age. If the incident had occurred about two months prior to the date of lodging the FIR, she was more than 18 years of age on that date. In absence of any allegation in the FIR that forcible sexual intercourse on the promise to marry, had taken place on one more previous occasion, such subsequent statement is not believable. There being delay in lodging the FIR, medical evidence is not supporting

the prosecution. Therefore, present is a case where the trial Court has not committed any illegality in acquitting the accused.

6. For the foregoing, we do not find any substance in this appeal against the acquittal, which deserves to be and is hereby dismissed.

Sd/- Sd/-

Judge **Judge**

(Prashant Kumar Mishra) (Ram Prasanna Sharma)

Bini