

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No.154 of 2014**

1. Smt.Uma Bai Sahu W/o Shatrughan Lal Sahu Aged About 27 Years R/o Village Masturi, PS Masturi, Civil And Rev. Distt. Bilaspur C.G.

---- Appellant**Versus**

1. State Of Chhattisgarh, Through SHO, PS Masturi, Distt. Bilaspur C.G.
2. Virendra Singh Thakur S/o Basant Thakur Aged About 42 Years R/o Netanagar, Masturi, PS Masturi, Distt. Bilaspur C.G.

---- Respondent

For Appellant

Ms. Meena Shastri, Advocate

For Respondent/State

Shri Rahul Tamaskar, Panel Lawyer

For Respondent No.2

Ms. Vijay Laxmi Shrofe, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra**Hon'ble Smt. Justice Vimla Singh Kapoor****Judgment on Board****By****Prashant Kumar Mishra, J.****29/06/2018**

1. This is an appeal by the victim/prosecutrix against acquittal of the respondent No.2 for offence under Sections 450 & 376 of the Indian Penal Code (IPC).
2. Albeit for an incident, which took place at about 8.00 am on 18-8-2013, the First Information Report (FIR) (Ex.P/1) was promptly lodged at 10.00 am by the victim/prosecutrix, yet considering her

admission in para 15 of cross-examination that in course of preparatory exercise by the accused when he removed his own clothes and undressed the victim (appellant herein) she did not resist nor made any effort to save herself from the clutches of the accused, even though at that time she was sitting on a plastic chair. Sexual intercourse in the position in which she was admittedly placed at the time of occurrence is not possible unless it is a case of consent.

3. Mere fact that the appellant has lodged the FIR immediately after occurrence may not explain her conduct at the time of occurrence. There may be several factors which might have prompted the appellant to lodge FIR, despite having consented for sexual intercourse.
4. In any case, in an appeal against acquittal, we are required to consider whether the trial Court's finding is so perverse that a man of ordinary prudence would not reach to such conclusion on the basis of evidence putforth by the prosecution, however, having seen the evidence, we are not inclined to take a different view of the matter than the one which has been taken by the trial Court.
5. In our considered view, no case for entertaining this acquittal appeal is made out. Accordingly, the acquittal appeal is liable to be and is hereby dismissed.

Sd/-
Judge
(Prashant Kumar Mishra)

Sd/-
Judge
(Vimla Singh Kapoor)