

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 264 of 2019

Lalit Kerketta, S/o. Shri Nestor Kerketta, Aged About 39 Years, Occupation Service, Police Head Constable, R/o. Maharpara, Bemetara, Police Station Bemetara, District Bemetara, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh, Through Police Station- City Kotwali, Durg, District Durg, Chhattisgarh.
2. Smt. Alka Barwa, W/o. Late Shri Prakash Barwa, Aged About 37 Years, R/o. Q. No. B-13 New Police Line, Durg, District Durg, Chhattisgarh.

---- Respondents

For Petitioner	:	Mr. Dheerendra Pandey, Advocate
For State	:	Mr. Vaibhav A Goverdhan, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

24.01.2019

Heard

1. The present petition is for quashing the charge sheet filed under Section 376 & 493 of Indian Penal Code lodged by the prosecutrix.
2. It is contended by the petitioner that the FIR itself would show that she was willing in relation with the petitioner as she was a widow lady and even the statement of the children of the victim would show that the petitioner used to come to the house of the prosecutrix and spent considerable time which would show that the prosecutrix was willing to have physical relation with the petitioner. He submits that the FIR itself do not constitute any offence under Section 376 of I.P.C. He placed his reliance in case of *Dr. Dhruvaram Murlidhar Sonar v. The State of Maharashtra & Ors. decided on 22.11.2018 in Criminal Appeal No.1443 of 2018* (arising out of SLP (Cr.) No.6532 of 2018) and submits that in the

similar circumstances, the Supreme Court has quashed the proceeding under Section 376 of I.P.C.

3. Perused the statement of the prosecutrix and the FIR. The statement of the prosecutrix would show that the petitioner used to visit the house of the prosecutrix initially and thereafter promise of marriage was given and on that assurance physical relation developed. Thereafter, the petitioner refused to marry when he was driven to a corner. The statement of the children of the victim which are also on record would show that the petitioner assured to marry and become their father and thereafter had developed the relation. The statement of the victim would show that consent was based on the promise of marriage. The said statement is supported by the children of the victim also. It is not a case that the petitioner and victim stayed together but the physical relation appears to be developed on the pretext of marriage, however, the marriage subsequently was never performed. Therefore, what was a reason of the consent whether it was free or it was on the promise can only be explored during the course of trial when the victim is examined. At this stage, no inference can be drawn. Therefore, the petition has no merit and accordingly is dismissed.

Sd/-
(Goutam Bhaduri)
Judge