

HIGH COURT OF CHHATTISGARH, BILASPUR

ACQA No. 305 of 2019

- Rajni Suryavanshi D/o Guharam Suryavanshi Aged About 23 Years R/o Village- Budena, Police Station- Nawagarh, District- Janjgir- Champa, Chhattisgarh.

---- Petitioner

Versus

1. Satish Kumar Jhaleriya S/o Suresh Jhaleriya Aged About 23 Years R/o Village- Budena, Police Station- Nawagarh, District- Janjgir- Champa, Chhattisgarh.
2. State Of Chhattisgarh Through Thana In-Charge, Police Station- Nawagarh, District- Janjgir- Champa, Chhattisgarh.

---- Respondent

For Appellant	: Ms. Rajani Soren, Advocate
For Respondent/State	: Shri Vikas Shrivastava, PL

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Smt. Justice Rajani Dubey

Order On Board by Prashant Kumar Mishra, J

08/07/2019

The trial court has acquitted the accused/respondent No.1 of the charges under Section 376 IPC. The evidence available on record, particularly the deposition of the prosecutrix would reveal that she had an affair with respondent No.1 and pursuant physical relation, may be on promise to marry but thereafter the prosecutrix got married to another boy but their relation continued. According to the prosecutrix, she left her marital house in the hope that the accused/respondent No.1 will marry her but after about six months, she returned to her marital house but due to insistence of the accused, she again came back to her parental house and continued

relation with the accused but eventually the accused denied to marry her.

Accused and the prosecutrix have attained the age of majority being more than 18 years of age. Thus, it is not a case where the accused/respondent No.1 obtained the consent of the prosecutrix during her minority. The fact that the prosecutrix got married at some other place would indicate that at the beginning she herself was not serious about her marriage with the accused. Any promise to marry by the accused to the prosecutrix, after her marriage with another boy is not a promise in the eye of law because at that point of time prosecutrix was aware that she having already married to another boy, can not marry the accused unless she is divorced from her first husband.

In our considered opinion the trial court has not committed any illegality while acquitting the accused of the charge under Section 376 IPC. Accordingly, the appeal is dismissed.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Rajani Dubey)
Judge