

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No. 425 of 2019**

- Dhanmet D/o Heerasai Aged About 24 Years R/o Village Amgaon, Police Station Lundra, District Surguja Chhattisgarh.

---Appellant**Versus**

1. State of Chhattisgarh, Through The Police of Police Station AJAK, Ambikapur, District Surguja Chhattisgarh.
2. Bikesh Thakur S/o Shambhu Thakur Aged About 22 Years R/o Mohlla Japla, Husainabad, District Palamu (Jharkhand), At Present Address Bhatthapara, Ward No. 45, Police Station Ambikapur, District Surguja Chhattisgarh.

---- Respondents

For Appellant	Shri Govind Dewangan, Advocate.
For Respondent No.1/State	Shri Santosh Bharat, P.L.

Hon'ble Shri Justice Prashant Kumar Mishra**Hon'ble Shri Justice Gautam Chourdiya****Order on Board by Justice Prashant Kumar Mishra****09/07/2019**

1. Although no period of limitation is provided for filing an appeal against acquittal under Section 372 of Cr.P.C., however, by way of abundant precaution, the appellant has filed an application for condonation of delay. We have treated this appeal to be within limitation.
2. The accused has been acquitted of the charges under Section 376(2)(n) of IPC and Section 3(2)(v) of Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act,

1989, by the Special Judge, Surguja (Ambikapur), C.G. in Special Sessions (Atrocities) Case No.120/17 vide judgment dated 29.11.2018.

3. Heard learned counsel for the parties and perused the material available on record.
4. The evidence available on record, particularly the statement of the prosecutrix would reveal that she was a major girl, aged about 21 years, at the time of incident, therefore, she appears to be a consenting party to the act of sexual intercourse. Her statement would further reveal that there have been physical relations between the accused and the prosecutrix on regular basis which according to the prosecutrix was on promise to marry by the accused. In her statement she would also state that they were married at a local temple and she has never complained that the accused has not married him. She also states that she has never lodged any complaint that the accused had ever made physical relation with her without her consent. Evidence on record would further suggest that parents of the accused refused to own the girl because she belongs to a different caste.
5. Thus, considering the nature and quality of evidence on record, the trial Court has rightly acquitted the accused of charges under Section 376(2)(n) of IPC & Section 3(2)(v)

Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, 1989 by extending him benefit of doubt.

6. In the result, there is no substance in this acquittal appeal, it fails and is hereby dismissed.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge

Akhilesh