

**NAFR****HIGH COURT OF CHHATTISGARH, BILASPUR****ACQA No. 524 of 2019**

- Preeti Vishwas D/o Shri Subal Chandra Vishwas Aged About 20 Years R/o Ward No.5, Subhapalli, Pakhanjur, Police Station Pakhanjur, District- North Bastar, Kanker, Chhattisgarh.

**----- Appellant****Versus**

1. State Of Chhattisgarh Through Station House Officer, Police Station Pakhanjur, District- North Bastar, Kanker, Chhattisgarh.
2. Vishal Sheel S/o Bhupal @ Bhopal Sheel Aged About 27 Years R/o P. V. 40, Pakhanjur, Police Station Pakhanjur, District- North Bastar, Kanker, Chhattisgarh.

**----- Respondents**

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For Appellant                               :-   Shri Amit Kumar Sahu, Advocate

For Respondent-State   :-   Shri Vikash Shrivastava, PL

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**Hon'ble Shri Justice Prashant Kumar Mishra &  
Hon'ble Shri Justice Gautam Chourdiya,JJ.**

**Judgment On Board****By****Prashant Kumar Mishra, J.**

19/07/2019

1. Heard.
2. This is an acquittal appeal challenging the acquittal of the respondent of the charges under Sections 363, 366, 376(2) (n) of I.P.C. and under Section 5(l) and Section 6 of the Protection of Children from Sexual Offences Act, 2012.
3. Allegations against the respondent was of abducting the prosecutrix and committing forcible sexual intercourse from January, 2015 onwards. At that point of time the prosecutrix stated herself to be 16 ½ years of age and since she was allegedly taken to Raipur, Lucknow etc. at different point of time and rape was committed in all such places, the charge-sheet was filed against the accused.
4. The trial Court has rendered a detailed judgment running into 57 pages. Having dealt with the entire evidence adduced by the prosecution, the trial Court would highlight that the prosecutrix got admitted herself in B.Sc. Nursing course in the year 2016 and at that point of time she was more than 18 years of age as per her admitted date of birth i.e. 31.08.1998. Since the prosecutrix was taken to Raipur, Lucknow and other places after this date and she willingly joined the company of the accused being a major girl and a

student of B.Sc. Nursing, the trial Court has found that she was a consenting party to the entire affair.

5. In respect to the allegation that she was subjected to forcible sexual intercourse in January, 2015 also when she was less than 18 years of age, the trial Court would discuss the evidence that in her statement under Section 164 Cr.P.C. or in her written complaint she has not alleged commission of rape in January, 2015. Similarly, the trial Court has referred to the over writing and interpolation in the written report while inferring that after lodging of the report it was manipulated to bring about allegation of rape in January, 2015 also. The evidence would suggest that the petitioner/prosecutrix had a love affair with the accused and in course of such relation, she was moving along with the accused enjoying his company at different places.
6. Such being the state of evidence on record, as has been found by the trial Judge, the view taken by the trial Court does not appear to be one such which may be called perverse or without any foundation.
7. It is settled law that when two views are possible and the trial Court has taken one view for acquitting the accused, the High Court in exercise powers of acquittal appeal jurisdiction is not entitled to unsettle the view of the trial Judge merely

because another view is possible. (See : **State of M.P. Vs. Bachhudas alias Balram and others, (2007) 9 SCC 135**).

8. Having anxiously considered the submissions made by the learned counsel for the appellant assailing the impugned judgment, we are not able to persuade ourselves to take any different view of the matter.
9. The acquittal appeal has no substance, therefore, it deserves to be and is hereby dismissed.

SD/-  
(**Prashant Kumar Mishra**)  
Judge

SD/-  
(**Gautam Chourdiya**)  
Judge

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