

HIGH COURT OF CHHATTISGARH, BILASPUR

- State Of Chhattisgarh Through Its Station House Officer, woman Police Station Bilaspur, district Bilaspur Chhattisgarh.

Versus

1. Sajjad Mohammad S/o Ishak Mohammad Aged About 20 Years R/o Purani Basti Dewangan Mohalla, Akaltara, District Janjgir Champa Chhattisgarh.
2. Abhay Shukla S/o Mahesh Shukla Aged About 19 Years R/o Village Pachara, Akaltara, District Janjgir Champa Chhattisgarh.

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For Applicant-State :- Shri Pawan Kesharwani, PL

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

Order On Board
By
Prashant Kumar Mishra, J.

1. This Acquittal appeal has been preferred by the State challenging the said part of the order passed by the trial Court sentencing the accused with less than minimum jail

sentence as provided for offence under Section 376(1) of I.P.C. Consequent upon amendment in the said provision w.e.f. 03.02.2013, the minimum jail sentence is now 10 years instead of 7 years. The trial Court has thus failed to take note of the minimum statutory sentence under the provision.

2. On due consideration, the Cr.M.P. is allowed.
3. Let regular Acquittal Appeal be registered and the same be placed for consideration in the week after next along with the Criminal Appeal which may have been filed by the accused challenging the conviction under the impugned judgment. The Registry shall find out the appeal and place it along with the Acquittal appeal in the week after next.
4. While hearing the Acquittal Appeal we shall also hear the accused's acquittal for offence under Section 376(2), 506 Part-II and 509B of I.P.C. and Section 3(1)(w-i)(w-ii) and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
5. In so far as acquittal of co-accused namely Abhay Shukla is concerned there is absolutely no evidence that except for allowing accused Sajjad Mohammad and the prosecutrix to stay in his house, he was involved in any other overact, therefore, his acquittal for offence under Section 376 read

with Section 109 of I.P.C., Section 509B read with Section 109 of I.P.C. and Section 3(1)(w-i)(w-ii) read with Section 109 of I.P.C. and Section 3 (2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Section 109 of I.P.C. as also under Section 66E of the Information Technology Act, 2000 read with 109 of I.P.C. and under Section 67A of the Information Technology Act, 2000, does not call for any interference.

6. Accordingly, grant for leave to appeal against acquittal of accused namely Abhay Shukla is dismissed, however, it is allowed in respect of Sajjad Mohammad in the terms indicated above.
7. Place the Acquittal Appeal against Sajjad Mohammad and the Criminal Appeal filed by him, if any, in the week after next.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge

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