

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURACQA No. 9 of 2020

- Champawati Chouhan D/o Prem Sai Chouhan Aged About 21 Years R/o Village Shivpur, Tehsil Patthalgaon, Police Station Patthalgaon, District Jashpur Chhattisgarh

---- Petitioner

Versus

1. Ganpat Chouhan S/o Fhool Singh Chouhan Aged About 23 Years Caste Gada, R/o Village Shivpur, Police Station Patthalgaon , District Jashpur Chhattisgarh
2. State Of Chhattisgarh Through S.H.O. Police Station Patthalgaon, District Jashpur Chhattisgarh

---- Respondent

For Petitioner	Mr. Pushkar Sinha, Advocate
For Respondent /State	Mr. Avinash Choubey, Panel Lawyer

DB: Hon'ble Mr. Justice Prashant Kumar Mishra &**Hon'ble Mr. Justice Gautam Chourdiya****Order On Board by Prashant Kumar Mishra, J.****3/3/2020**

1. Heard.
2. The trial Court has acquitted the accused of the charge under Section 376 (2) (l)(n) of IPC vide judgment dated 24.4.2019 passed by the Additional Judge, District Jashpur (CG) to the Court of Additional Sessions Judge, Kunkuri, District Jashpur (CG) in Sessions Case No.27/2018.
3. Learned counsel for the appellant would submit that the prosecutrix was sexually exploited on promise to marry,

therefore, it is a case where offence under Section 376 of IPC is made out against the respondent (accused) but he has wrongly been acquitted by the trial Court.

4. The first sexual intercourse between the appellant and the prosecutrix happened on 9.8.2017. As per the prosecutrix, the accused thereafter regularly performed forcible sexual intercourse and refused to marry her when she became pregnant. The FIR was lodged on 22.2.2018 alleging that the prosecutrix is carrying pregnancy from the accused. However, in the DNA Report-Ex.P/34, it has been found that the accused is not the biological father of the child born to the prosecutrix.
5. Even otherwise, in her deposition, the prosecutrix is not stating that the first sexual intercourse happened on promise to marry. For the said incident, she says that despite her denial, the accused performed sexual intercourse without mentioning that on 9.8.2017 itself, the accused promised to marry her and thereafter, committed forcible sexual intercourse. Thus, there was no promise to marry from inception.
6. The trial Court has rightly acquitted the accused.
7. No case for interference in the acquittal appeal is made out.
8. The acquittal appeal is dismissed at the motion stage itself.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Gautam Chourdiya)
Judge

