

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1090 of 2020

State of Chhattisgarh through Police Station Trikunda, District Balrampur, Ramanujganj (CG)

---- Appellant

Versus

Manoj Pal, S/o. Late Deni Pal, Aged about 45 years, Resident of village Chattanipara, Police Station Trikunda, District Balrampur, Ramanujganj (CG)

---- Respondent

For the Appellant :- Mr. Lalit Jangade, Govt. Advocate
For the Respondent :- None

Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Vimla Singh Kapoor,

Order on Board By Vimla Singh Kapoor, J.

07.12.2020

Heard.

1. This is a petition filed by the State seeking leave to appeal against the judgment dated 23.12.2019 passed in Sessions Trial No. 31/2019 acquitting the respondent/accused of the charge under Sections 450,376 and 506-B IPC.
2. According to the case of the prosecution, on 01.01.2019 when the prosecutrix (PW-6) a married lady aged about 32 years at the relevant time was all alone in her house, the accused/respondent

gained an entry thereto and committed forcible sexual intercourse with her putting her under threat of dire consequences in case of disclosure of the incident to anyone else. Thereafter, on return of her husband and mother-in-law from the market, the report was lodged by her against the accused/respondent and after investigation including medical examination of the prosecutrix, challan was filed against the respondent/accused for the offences as referred to above and charged framed accordingly. However, the Court below by the judgment impugned acquitted the accused of all the charges levelled against him. Hence, this petition by the State.

3. Counsel for the State opposes the judgment impugned and submits that the findings recorded by the Court below are not in consonance with the evidence available on record particularly that of the prosecutrix (PW-6) and being so, the same is liable to be set aside.
4. After hearing counsel for the State and going through the material available on record this Court is of the opinion that there is no evidence on record to show that the prosecutrix (PW-6) resisted to the act of the respondent/accused in any manner whatsoever. As is evident from the statement of the prosecutrix herself, she did not offer any resistance to the act of the accused nor did she raise any hue and cry to attract the attention of anyone from the vicinity to her rescue. Not only this, the Doctor (PW-7) who medically examined the prosecutrix has also not supported the case of the prosecution as according to her a married lady aged

about 32 years like the prosecutrix could not have been subjected to forcible sexual intercourse without suffering any injury on her body. Since no mark of struggle has been noticed by this witness on the body of the prosecutrix, it can safely be inferred that she was a consenting party. Even no definite opinion regarding the recent sexual intercourse has been given by this witness. The evidence also discloses that there was some dispute between the prosecutrix and the daughter of the accused and being so the possibility of false implication of the accused can also not be ruled out. Even otherwise, it has been held by the Apex Court in plethora of decisions that if the material collected by the prosecution gives rise to two plausible views, the one favouring the accused has to be given preference to.

5. Considering the aforesaid factual and legal position, this Court does not see any illegality or irregularity in the judgment impugned warranting any interference therewith. Therefore, the leave sought for by the State is hereby refused.
6. The petition is accordingly dismissed.

Sd/-

Manindra Mohan Shrivastava
Judge

Sd/-

Vimla Singh Kapoor
Judge