

HIGH COURT OF CHHATTISGARH, BILASPUR**ACQA No.174 of 2020**

- Smt. Usha Deshmukh D/o Moolchand Dorle Aged About 46 Years R/o Street No. 37 Qr. No. 3/c Sector 8, Bhilai Nagar, Tahsil And District Durg, Chhattisgarh

---- Appellant/Victim**Versus**

1. Surendra Kumar Thakur @ Gudda S/o N.P. Thakur Aged About 46 Years R/o Harnabandha Near Muktidham, Above Dr. Kesari Clinic, Durg District Durg, C.G. Permanent Residence- House No. 504/2016 Sindhiya Nagar, Police Station Mohan Nagar, District Durg, Chhattisgarh
2. State Of Chhattisgarh Through Station House Officer Aarakshi Kendra Bhilai Nagar, District Durg, Chhattisgarh

---- Respondents

Shri Arvind Dubey, counsel for appellant.
Shri Ravish Verma, GA for State.

Division Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava & Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board**19/07/2021**

Heard on admission.

1. Learned counsel for the appellant would argue that the respondent-accused has been acquitted, even though, the appellant-prosecutrix in her examination-in-chief has clearly stated that the accused has committed sexual intercourse with her from year 2009 to 2015 without her consent and against her wishes. He would submit that the learned Court below has failed to examine that there was no free-consent given by the appellant/prosecutrix and the accused would therefore be liable for commission of offence of rape on the prosecutrix.
2. From the records of this case and the evidence, particularly that of the prosecutrix, we find that the prosecutrix first admitted that she had longstanding relationship with the accused for about 6 years. The prosecutrix is a married lady. To say that the accused was misleading her that in future, he would be

marrying her, does not appear to be story, which could be believed, particularly when the prosecutrix is a married lady and relationship with the respondent-accused said to be about six years. These proved facts have been taken into consideration by the learned trial Court to record a finding that the prosecutrix was subjected to rape by the respondent-accused, is doubtful.

3. The finding, which has been recorded by the learned trial Court, does not suffer from perversity or patent illegality. Therefore, there is no scope of consideration in this appeal against impugned judgment of acquittal.

4. In the result, the appeal is dismissed at the stage of admission itself. Records of the Court below be remitted forthwith.

SD/-
(Manindra Mohan Shrivastava)
Judge

SD/-
(Vimla Singh Kapoor)
Judge