

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P No.902 of 2021**

State Of Chhattisgarh Through Police Station Farasgaon, District Kondagaon
Chhattisgarh., District : Kondagaon, Chhattisgarh

---- Petitioner**Versus**

Tarnisen Yadav @ Pappu S/o Bhuneshwar Yadav Aged About 40 Years R/o
Dhanagar, Tehsil Raigarh, Police Station And District Raigarh Chhattisgarh
Present Address Chowki Baanskot, Police Station Vishrampur, District
Kondagaon Chhattisgarh.

-----Respondent

For Petitioner:

Shri Ravish Verma, Government Advocate.

Division Bench:**Hon'ble Shri Arvind Singh Chandel****& Hon'ble Shri Deepak Kumar Tiwari, JJ****Judgment/Order On Board****08.12.2021****Per Deepak Kumar Tiwari, J.**

1. This application for grant of leave to Appeal under Section 378 (3) of the Cr.P.C, 1973 has been preferred against the judgment of acquittal dated 19.03.2021 passed by the Additional Sessions Judge (FTC), Kondagaon, District Kondagaon in Sessions Trial No.59/2019, whereby the Respondent/accused has been acquitted from the charges punishable under Sections 376 and 506 IPC.

2. It is submitted that the trial Court has failed to consider the fact that the Respondent/accused visited the house of the prosecutrix as a friend of her late brother and continuously called her through phone. The Respondent/accused had proposed the prosecutrix and had also promised to marry her. The family of the prosecutrix was made to believe that the Respondent/accused would marry her and therefore, they allowed him to visit their house due to which, he

took undue advantage and exploited the prosecutrix. Even after the divorce of the prosecutrix with her husband in 2018, the Respondent/accused used to continuously visit her at her matrimonial house. It is submitted further that the trial Court has not appreciated the evidence available on record properly and arrived at a conclusion, which is unjust and improper, therefore, leave is sought to Appeal against acquittal.

3. Heard and perused the record.

4. Considering the evidence of the prosecutrix, a 29 year old lady, who could well understand what is wrong and right, therefore, this Court does not find any reason to assume that the physical relation made by the Respondent/accused with the prosecutrix was without her consent or with the consent of the prosecutrix when he was under misconception of any fact or on the ground of false promise of marriage/under pretext of marriage by him. The prosecutrix was having physical relationship with the Respondent/accused repeatedly and since long, therefore, this Court is of the considered opinion that the trial Court, after considering the evidence led by the prosecution, has rightly held that the prosecution has failed to prove the charges against the Respondent/accused under Sections 376 and 506 IPC and accordingly, acquitted him.

5. Considering all the above aspects, we are not inclined to interfere with the order of acquittal. Accordingly, the application for grant of leave to Appeal is liable to be and is hereby dismissed.

Sd/-

(Arvind Singh Chandel)
JUDGE

Sd/-

(Deepak Kumar Tiwari)
JUDGE