CGHC010114322012 2026:CGHC:43684

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 367 of 2012

Judgment Reserved On : 25/09/2026
Judgment Delivered On :08/10/2026

Devendra Kumar, S/o Ghanshyam Singh, Sagarwanshi, Caste Oriya, aged about 23 years, R/o Village Gidhwa, Outpost Pinkapar, PS Devri, District Durg (CG)

... Appellant

versus

State Of Chhattisgarh, through Station House Officer, Police Station Devri, District Durg (CG)

... Respondent

For Appellant	:	Mr. Aditya Shrivastava appears on behalf of Shri BP Singh, Advocate.
For Respondent	:	Dr. Smt. Richa Pandey, PL.

(Single Bench)
Hon'ble Shri Sudhir Kumar, J

C A V Judgment

1. The appellant would call in question the legality, validity and correctness of the judgment of conviction and order of sentence dated 28.1.2012 passed by the Additional Sessions Judge, Balod, District Durg in ST

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No.105/11 whereby the appellant has been convicted under Section 506-B of the IPC and sentenced to the period already undergone by him i.e. from 11.10.2011 to 21.11.2011 and to pay a fine of Rs.1,000/-, in default of payment of fine to further undergo RI for 3 months. However, the appellant has been acquitted of the charges under Sections 450 and 376 (1) of the IPC.

2. Case of the prosecution is that on 11.10.2011, the victim, a major girl aged about 19 years, has lodged an FIR (Ex.-P/1) with the concerned Police Station stating that for the last about 3 years, the appellant has been committing sexual intercourse with her on the pretext of marriage, as a result of which in the month of January, 2011, she became pregnant and accordingly, she informed the appellant about the said fact. Thereafter the appellant threatened the victim not to disclose the said fact to anyone, otherwise he would kill her. In the month of April, 2011, parents of the victim got her married with another person. On 16.9.2011, the victim had given birth to a male child. Thereafter her husband had left her to her parental house. On being asked by her parents, she disclosed that for the last 2-3 years, the appellant has been committing sexual intercourse with her on the pretext of marriage, because of which she became pregnant and had given birth to a child, on which her parents and village people enquired the said fact from the appellant, which was admitted by him. However, the appellant refused to keep the victim and her child with him. On these allegations, the FIR was registered.

3. During the course of investigation, consent of the victim for examination of her private parts was obtained vide Ex.-P/2. The victim was medically examined by PW-8 Dr. Mamta Singh, who prepared the report Ex.-P/12A. According to the report, the victim was sexually matured. No external injuries were seen. No recent exact opinion could be given about recent sexual intercourse because the victim is habituated to sexual intercourse and has delivered a baby. Time passed since delivery is less than 45 days.

4. In order to bring home the charges against the appellant, the prosecution has examined as many as 8 witnesses and exhibited 15 documents. Thereafter statement of the accused/appellant was recorded under Section 313 of the CrPC in which the appellant has denied the material appearing against him in the prosecution evidence and pleaded innocence and false implication.

5. The trial Court after appreciating the oral and documentary evidence available on record, convicted and sentenced the appellant as mentioned in the opening paragraph of this judgment, against which this Appeal has been preferred by the accused/appellant questioning the impugned judgment of conviction and order of sentence. However, the appellant has been acquitted of the charges under Sections 450 and 376 (1) of the IPC.

6. Learned counsel appearing for the appellant submitted that the offence under Section 506-B of the IPC has not been established/proved by any cogent and reliable evidence. It was further contended that the judgment of conviction and order of sentence passed by the trial Court are

unsustainable in law and on facts. On the aforesaid submissions, learned counsel for the appellant prayed that the Appeal may be allowed and the appellant may be acquitted of the said charge.

7. Per contra, learned State Counsel submitted that the judgment of conviction and order of sentence passed by the trial Court are well founded and no interference is called for in the appellate jurisdiction. On the aforesaid submissions, learned State Counsel prayed for dismissal of the Appeal.

8. I have heard learned counsel for the parties at length, considered their rival submissions and perused the record of the case.

9. In the present case, the only question that arises for consideration is whether the conviction and sentence recorded by the trial Court for offence under Section 506-B of the IPC is sustainable or not?

10. The victim (PW-1), in her testimony, has stated that in the month of January, 2011, she informed the appellant about her pregnancy. According to her, the appellant warned her not to disclose the said fact to anyone and threatened that if she discloses the said fact to anyone, he would kill her. She has further stated that on account of threat extended by the appellant and also due to fear, she did not disclose the said fact to anyone.

11. However, during her cross-examination, the victim has admitted the fact that at the time of her marriage, she had not disclosed regarding her pregnancy to anyone. She has further admitted that she had not informed anyone about the alleged incident. She has also admitted that even for a period of 2 to 3 years thereafter, she did not disclose the

alleged incident to anyone. Significantly, she has further admitted that she has lodged the report only when the appellant declined to keep her and her child with him.

12. Upon careful appreciation of the aforesaid testimony of the victim, particularly the material admission elicited in cross-examination, this Court is of the considered opinion that the evidence of victim in its present form does not furnish a safe and reliable basis for recording conviction under Section 506-B of the IPC.

13. On the basis of foregoing discussion and upon comprehensive appreciation of the evidence on record, I am of the considered view that the trial Court has not properly and judiciously appreciated the evidence and the findings recorded by the trial Court are, therefore, not sustainable in law.

14. Consequently, the Appeal is allowed. Judgment of conviction and order of sentence passed by the trial Court in respect of offence under Section 506-B of the IPC are hereby set aside. The appellant is acquitted of the charge under Section 506-B of the IPC.

Sd/-
(Sudhir Kumar)
Judge

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