

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 96 OF 2018**

The State of Chhattisgarh Through District Magistrate Surguja,
Ambikapur, Chhattisgarh.

---- Petitioner

Versus

Santlal Kushwaha, S/o Late Sitaram Kushwaha Aged About 27 Years
R/o Village-Ramghat P. S.-Ramghat, District-Satna (M. P.), present at
Village-Mahua Para, P. S.-Rajpur, District Balrampur- Ramanujganj,
Civil Surguja, Ambikapur, Chhattisgarh.

---- Respondent

For Petitioner/State	:	Shri Vivek Sharma, Govt. Advocate.
For Respondent	:	None present.

Hon'ble Shri Pritinker Diwaker &
Hon'ble Shri Sanjay Agrawal, JJ

Order on Board**28/02/2018****Per Pritinker Diwaker, J.**

1. This petition has been filed under Section 378(3) of the Code of Criminal Procedure, 1973 assailing the impugned judgment dated 13.10.2017 passed by the Additional Sessions Judge, Ramanujganj, Civil District -Surguja (Ambikapur) (C.G.) in Sessions Trial No. R-41/2015, whereby the Court below has acquitted the respondent of the offence under Sections 450, 376(1), 506(B) of IPC.

2. Brief facts of the case are that on 16.03.2015, a written report (Ex. P.1) was lodged by the prosecutrix (PW-1), a married lady, aged about 20 years, alleging that on 15.03.2015, at about 11.30 P.M when

she was all alone in the house, respondent knocked the door and when she opened the door, he entered the house, caught hold of her neck, and committed forceful sexual intercourse. Based on this written report, the First Information Report (Ex. P-2) was registered against the respondent under Sections 457, 376 & 506 of IPC.

3. During trial, the prosecution has examined as many as seven witnesses. Statement of the accused/respondent was also recorded under Section 313 of the Cr.P.C. in which he pleaded his innocence and false implication in the case.

4. Admittedly, prosecutrix (PW-1) has not supported the prosecution case and has been declared hostile. In the Court, the prosecutrix (PW-1) has stated that the accused/respondent had simply entered her house and was watching the T.V. when her husband came. She has further stated that her husband had suspicion in his mind that she is having some relationship with the respondent and that is why the report was lodged. In her entire statement, she has nowhere stated that she was subjected to forcible sexual intercourse by the respondent. Even in the medical report of the prosecutrix (Ex. P-6), no external or internal injury was found on her body.

5. After hearing counsel for the State/petitioner and considering the material available on record as well as the elaborate judgment impugned passed by the Court below and being very much conscious of the existing legal position that in a petition against acquittal, if two views are possible on the basis of the evidence led by the prosecution and the trial Court taking one view favoured the accused/respondent, reversion of the findings of acquittal by the appellate/revisional Court

taking the other possible view into consideration, is not permissible in law, this Court is of the view that the judgment impugned acquitting the accused/respondent of the offence under Sections 450, 376(1) & 506(B) of IPC is just and proper and does not call for any interference. Accordingly, the leave as sought for by the petitioner for registration of appeal against the judgment of acquittal is hereby refused.

6. The petition is accordingly dismissed.

Sd/-
(Pritinker Diwaker)
Judge

Sd/-
(Sanjay Agrawal)
Judge