



2026:CGHC:13391-DB



2026:CGHC:13391-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 120 of 2024

- XYZ

...Appellant/Victim

versus

1. Kanhaiya Kenwat, Son of Maniram, aged about 24 Years, Resident of Village Kansa, Police Station Dabhara, Dist. Sakti, C.G.
2. State of Chhattisgarh, Through Station House Officer, Police Station Dabhara, Dist. Sakti, C.G.

... Respondents

For Appellant	:	Mr. Anupam Upadhyay, Advocate on behalf of Mr. Anukul Biswas, Advocate.
For Respondent No.1	:	None.
For Respondent No.2/State	:	Mr. Narayan Prasad, Panel Lawyer.

Hon'ble Smt. Justice Rajani Dubey &

Hon'ble Shri Justice Radhakishan Agrawal

Judgment on Board

20.03.2026

Per Radhakishan Agrawal, J.

1. This acquittal appeal preferred by the Appellant/Victim arises out of the judgment dated 30.10.2023 passed by the Additional Sessions Judge (F.T.S.C.), Sakti, District Janjgir-Champa, C.G. in Sessions Case No.18/2023, whereby the learned trial Court acquitted the accused/respondent No.1 of the charges under Sections 450 & 376(2)



(n) of Indian Penal Code (for short, "IPC") on the basis of benefit of doubt.

2. Case of the prosecution, in brief, is that on 23.12.2022, victim, aged about 22 years, lodged a written complaint (Ex.P-1) at Police Station Dabhra stating that respondent No.1 had been acquainted with her since 2019. It is alleged that on 28.12.2019, when she was alone at her house, accused/respondent No.1 established physical relations with her on the promise of marriage and, despite her objection, continued such relations on several occasions on the same assurance. It is further alleged that when the victim went to Tirupur, Tamil Nadu for work, the accused stayed with her and continued the relationship, but ultimately refused to marry her. On the basis of the written report (Ex.P-1), FIR (Ex.P-2) was registered against respondent No.1.
3. During the course of investigation, after obtaining the consent of the victim, she was sent for medical examination, whereupon PW-7 Dr. H.B. examined her and did not find any internal or external injuries over the person of the victim and gave MLC report (Ex.P-4). Accused/respondent No.1 was taken into custody vide Ex.P-11. His underwear was seized vide Ex.P-10, and the vaginal slides and underwear of the victim were seized vide Ex.P-15. Seized articles were sent to FSL for chemical examination, and as per FSL report (Ex.P-24), no seminal stains or human spermatozoa were found.
4. Statements of the witnesses were recorded and after completing investigation, charge sheet was filed against the accused/respondent No.1 before the concerned trial Court. Accused/respondent No.1 abjured the guilt and prayed for trial.



5. The trial Court, after hearing counsel for the parties and appreciating the evidence on record, by the impugned judgment acquitted the accused/respondent No.1 of the charges leveled against him.
6. Learned counsel for the appellant/victim submits that the learned trial Court has erred in acquitting the accused/respondent No.1 of the aforesaid charges by recording perverse findings. It is further submitted that sufficient evidence is available on record, particularly the testimony of PW-1 (victim), to establish that accused/respondent No.1, on the false pretext of marriage, established physical relations with her on several occasions and subsequently refused to marry her. It is, therefore, contended that the impugned judgment of acquittal suffers from perversity and illegality and is liable to be set aside.
7. Learned counsel for the respondent No.2/State supports the contention made by learned counsel for the appellant/victim.
8. We have heard learned counsel for the parties and perused the material available on record.
9. The prosecution case primarily rests on the testimony of the victim (PW-1). She stated in her deposition that in the year 2019, when she was alone at her house during daytime, respondent No.1 came there and, on her objection, assured her that he would marry her, whereafter physical relations were established. She further stated that thereafter, whenever she remained alone, the accused used to come and establish physical relations with her repeatedly. She also deposed that later she went to Tirupur, Tamil Nadu for stitching work, where she lived in a rented room, and during that time also, respondent No.1 came there, stayed with her and the relationship continued and thereafter,



accused returned to Bina, U.P., where his father was working, and from there, he would come occasionally and establish physical relations with her. According to her, when respondent No.1 later stopped visiting, she herself went to Bina, U.P. to meet him, where his mother objected to their marriage and turned her out of the house. Thereafter, she and the accused boarded a train for Tirupur, but on receiving a call from family members, they returned to Chhattisgarh. She further stated that when she again asked respondent No.1 to marry her, he refused, whereupon she lodged the written complaint (Ex.P-1). In cross-examination, she admitted that from 2019 till December 2022, she had not disclosed the alleged relationship to her family or society. She further admitted that the accused was her relative and was related to her as her maternal aunt (*mausi*) and that she was aware of this relationship during the entire period. She also admitted that she used to send messages and obscene photographs to the accused through Instagram and that both of them liked each other and intended to marry. She also admitted that she had gone to Delhi on her own free will to meet the accused and that during the entire period, she did not make any complaint against him to anyone.

10. Thus, from a perusal of the aforesaid evidence, it emerges that there was a love affair between the victim and the accused/respondent No.1 and that the victim was a consenting party to the alleged acts. The record further reflects that she voluntarily travelled and stayed with the accused/respondent No.1 at different places on her own free will, without offering any resistance or raising any alarm or complaint at any point of time. It has also come on record that the victim was fully aware that the accused/respondent No.1 was her relative, yet she continued the



relationship. These circumstances do not support the allegation of forcible acts against the accused/respondent No.1. The learned trial Court, after elaborate discussion and proper appreciation of the evidence on record, has concluded that the prosecution has failed to prove its case beyond reasonable doubt and, therefore, acquitted the accused/respondent No.1 of the charges by extending the benefit of doubt.

11. The Hon'ble Apex Court in its judgment dated 12.02.2024 passed in Criminal Appeal No.1162 of 2011 in case of *Mallappa and Ors. Versus State of Karnataka*, has held in para 36 as under:-

"36. Our criminal jurisprudence is essentially based on the promise that no innocent shall be condemned as guilty. All the safeguards and the jurisprudential values of criminal law, are intended to prevent any failure of justice. The principles which come into play while deciding an appeal from acquittal could be summarized as:-

"(i) Appreciation of evidence is the core element of a criminal trial and such appreciation must be comprehensive inclusive of all evidence, oral and documentary;

(ii) Partial or selective appreciation of evidence may result in a miscarriage of justice and is in itself a ground of challenge;

(iii) If the Court, after appreciation of evidence, finds that two views are possible, the one in favour of the accused shall ordinarily be followed;

(iv) If the view of the Trial Court is a legally plausible view, mere possibility of a contrary view shall not justify the reversal of acquittal;

(v) If the appellate Court is inclined to reverse the acquittal in appeal on a re-appreciation of evidence, it specifically address all the reasons given by the Trial Court for acquittal and must cover all the facts;

(vi) In a case of reversal from acquittal to conviction, the appellate Court must demonstrate an illegality, perversity or error of law or fact in the decision of the Trial Court."

12. Considering the facts and circumstances of the case and the law laid



down by the Hon'ble Supreme Court in *Jafarudheen & Mallappa (supra)*, the view taken by the learned trial Court is a plausible and reasonable view. In the absence of any patent illegality or perversity, this Court finds no ground to interfere with the impugned judgment of acquittal passed by the learned trial Court.

13. Accordingly, the acquittal appeal filed by the appellant/victim against the acquittal of accused/respondent No.1 is hereby dismissed.

Sd/-
(Rajani Dubey)
Judge

Sd/-
(Radhakishan Agrawal)
Judge