



2026:CGHC:1097-DB



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No.81 of 2018

1 - State Of Chhattisgarh Through Police Station Kharora, District Raipur, Chhattisgarh

Appellant (s)

versus

1 - Gaurava @ Golu Agrawal, S/o Shri Deepak Agrawal, Aged About 24 Years, R/o Kharora, Police Station Kharora, District Raipur, Chhattisgarh

Respondent(s)

For Appellant (s) : Mr. Atanu Ghosh, Dy. GA

For Respondent(s) : Mr. Sanjay Agrawal, Advocate

Hon'ble Smt. Justice Rajani Dubey

Hon'ble Shri Justice Radhakishan Agrawal

Judgment on Board

Per Rajani Dubey J.

08/01/2026

1. This acquittal appeal has been preferred by the State/appellant against the judgment of acquittal dated 20.11.2017 passed by learned 7th Additional Session Judge (FTC), Raipur, District Raipur (C.G.) in Special Criminal Case (POCSO) No.168/2016, whereby the respondent has been acquitted of the charges under



Sections 376 (2) (n) and 506 Part-II of IPC and Section 6 of POCSO Act.

2. Brief facts of the case are that on 28.05.2016 in the night on the occasion of marriage anniversary of the parents of the respondent accused, the prosecutrix was working there as maid servant and after function, respondent went to drop the prosecutrix to her home but instead he took her on Raipur road where he committed forcible sexual intercourse with her on the way and also slapped her 2-3 times on her objection and also threatened her not to tell the same to anybody, thereafter he left her there and went away. On the next day she narrated the entire incident to her parents, as such on 29.05.2016 a written report was lodged against the respondent/accused. After investigation, charge sheet was submitted before the Magistrate concerned. The learned Trial Court after appreciation of oral and documentary evidence available on record acquitted the respondent of the aforesaid charges, against which the present appeal has been filed by the appellant.
3. Learned counsel for the appellant/State submits that the impugned judgment of acquittal is bad in law and facts, hence the same is liable to be set aside. The Learned Trial Court has failed to appreciate the evidence recorded in its true and correct prospective and the prosecution had proved its case beyond all reasonable doubts against the respondent, but despite the same



the accused respondents have been acquitted. He further submits that the learned Trial Court ought to have seen that the prosecutrix was below 18 years of age at the time of incident and the same is fortified by school admission register (Ex-P/39) and the accused committed forcible sexual intercourse with the prosecutrix which is corroborated by the evidence available on record but despite the same he has been acquitted of the aforesaid charges. Therefore, looking to the facts and circumstances of the case, the judgment and finding of the learned Court below is perverse and is liable to be set aside.

4. Learned counsel for the respondent supports the impugned judgment of acquittal and submits that the learned Trial Court has minutely appreciated the oral and documentary evidence available on record and has rightly acquitted the respondent of the aforesaid charges, as such no interference is called for by this Court. Thus, the appeal is liable to be dismissed.
5. Heard learned counsel for the parties and perused the material available on record.
6. It is clear from the record of the learned Trial Court that the learned Trial Court framed charges under Sections 376 (2) (n) & 506 Part-II of IPC and Section 6 of POCSO Act against the accused/respondent and after appreciation of oral and documentary evidence available on record, the learned Trial Court acquitted the respondent of the aforesaid charges.



7. PW-1 prosecutrix stated in her examination-in-chief that she was drinking tea with the accused/respondent, at that time some policemen came and took them to police station and took her signatures. She admitted her signatures on the documents from Ex-P/1 to Ex-P/8. The prosecution declared her hostile and cross-examined her then she admitted this suggestion of prosecution that the accused committed forcible sexual intercourse with her but when defence examined her, then she admitted this suggestion of defence that her age is 19 years and she is in love affair with the accused and their relationship was consensual.
8. PW-2 mother of the prosecutrix, PW-3 father of the prosecutrix also did not support the prosecution case. The prosecution declared them hostile and cross-examined them, but they denied all suggestions of prosecution and also denied their police statement.
9. PW-8 Dr. Snehlata Singh examined the prosecutrix but she found that hymen was intact and opined that no definite opinion can be given and advised for chemical examination and gave her report (Ex-P/31). In FSL report, no semen was found in her vaginal slide and the same is not sufficient for further examination. PW-8 Dr. Snehlata Singh admitted this suggestion of defence that she did not find any internal injury and hymen was intact as such medical report also not supported the prosecution case. The learned Trial



Court also minutely appreciated the oral and documentary evidence and found that statement of the prosecutrix and her mother father are not reliable and the prosecution has failed to prove its case beyond reasonable doubt against the accused respondent.

10. The Hon'ble Apex Court vide its judgment dated 12.02.2024 (Criminal Appeal No 1162 of 2011) passed in **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 vidence, 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 must 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.”



11. Considering the facts and circumstances of the case and the law laid down by the Hon'ble Supreme Court in **Mallappa** (supra) and the view which has been taken by the learned trial Court appears to be plausible and possible view and in the absence of any patent illegality or perversity and looking to the limited scope of interference in an acquittal appeal, this Court is not inclined to interfere with the impugned judgment.
12. Accordingly, the acquittal appeal is liable to be and is hereby dismissed.

Sd/-
Rajani Dubey
Judge

Sd/-
Radhakishan Agrawal
Judge

Nirala