



2025:CGHC:39400-DB



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 158 of 2018

State Of Chhattisgarh Through The Incharge Police Station Jaijaipur District
Janjgir Champa Chhattisgarh.

... Appellant

versus

1 - Mithleshwar @ Mithlesh, S/o Sukhdayal, Aged About 24 Years R/o
Baheradih, Police Station Jaijaipur District Janjgir Champa Chhattisgarh.

2 - Hussain Kumar Patre, S/o Salikram Patre, Aged About 22 Years, R/o
Baheradih, Police Station Jaijaipur District Janjgir Champa Chhattisgarh.

... Respondents

For State/Appellant : Mr. Atanu Ghosh, Dy. G.A.

For Respondents : None, though served.

Division Bench

Hon'ble Shri Justice Sanjay S. Agrawal &

Hon'ble Shri Justice Radhakishan Agrawal

Judgment on Board.

07.08.2025

Per Sanjay S. Agrawal, J.

1. This appeal has been preferred by the appellant/State against the Judgment dated 06.10.2017 passed by the First Additional Sessions Judge, Sakti, District-Janjgir-Champa in Special Criminal Case No.18/2016, whereby, the Respondent No.1- Mithleshwar @ Mithlesh



has been acquitted with regard to the offence punishable under Section 363, in alternatively 363/34 and 366, in alternatively 366/34 of IPC, read with Section 6 of Protection of Children from Sexual Offences Act, 2012, in alternatively 376(1) of IPC, while Respondent No.2-Hussain Kumar under Section 363, in alternatively 363/34 and 366, in alternatively 366/34 of IPC.

2. It is alleged by the prosecution that on 11.06.2016, a written report (Ex.P/10) was lodged by the prosecutrix, aged about 17 and half years old, resident of village Jarve, Police Station Jaijaipur, alleging inter alia, that she came in contact with the Respondent No.1-Mithleshwar @ Mithlesh and started talking with him, who on the pretext of marriage, came on 08.06.2016 in the night and with the help of his friend, namely, Hussain, the Respondent No.2 herein, took her by the motorcycle to the station at Baradwar, where said Respondent No.2 dropped them and, the Respondent No.1-Mithleshwar @ Mithlesh, thereafter, took her to Raipur by train and, stayed in a rented house for two days and during this period, he has committed sexual intercourse with her, for three to four times, while alluring to marry with her. Further of her allegation is that on 10.06.2016, he took her to village Champa and dropped to her cousin's house at village Khamharia and then fled away, while refusing to marry with her.
3. Perusal of the record would show that the prosecutrix was examined medically on 11.06.2016 by Dr. Shashi Prabha Banjare (PW/10), who in her report (Ex.P/5) has, however, not given any definite opinion regarding sexual intercourse committed upon her. It appears further from her (PW/10) testimony that she has prepared two vaginal slides



and sent for chemical examination, along with her undergarment (Panty), and according to the FSL Report (Ex.P/32), the human sperm was found on those articles. But, in order to ascertain that it belongs to the Respondent No.1, nothing of his belongings were, however, sent, so as to hold that the alleged human sperm was that of him.

4. That apart, in order to establish the alleged allegations, as was levelled by her vide her written report (Ex.P/10), she was examined as PW/3. However, a bare perusal of her testimony would reveal the fact that nothing was done by the Respondent No.1 with her, nor even the alleged report was found to be lodged by her. Her father, who was examined as PW/2, has also not supported the alleged allegations. No cogent and reliable evidence has, thus, been led by the prosecution, so as to hold that the respondents were involved in connection with the alleged crime and, after taking note of those materials, the trial Court has, therefore, not committed any illegality in acquitting them from the commission of the alleged crime.
5. The appeal being devoid of merit is, accordingly, dismissed.

Sd/-
(Sanjay S. Agrawal)
Judge

Sd/-
(Radhakishan Agrawal)
Judge