



2026:CGHC:17973-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 410 of 2025

1 - Abc Nil

... Appellant

versus

1 - State Of Chhattisgarh Through The Police Station - Bori, District - Durg (C.G.).

2 - Pushparaj Sonwani S/o Doulatram Sonwani Aged About 37 Years R/o Tata Line, Sundar. Nagar, Near Gulab Kirana Stores, Arya Nagar Kohka, Bhilai, Chouki - Smriti Nagar, Thana - Supela, District - Durg (C.G.).

... Respondents

For Appellant	: Mr. Bhuvneshwar Singh Rajput, Advocate
For State	: Mr. Akhilesh Kumar, Govt. Advocate.

(Division Bench)

Hon'ble Shri Justice Narendra Kumar Vyas

Hon'ble Shri Justice Sanjay Kumar Jaiswal

Judgment on Board

(21.04.2026)

Per Narendra Kumar Vyas, J.

1. The victim has preferred this acquittal appeal under Section 413 of the Bharatiya Nagarik Suraksha Sanhita, 2023 against the judgment of acquittal dated 02.07.2025 passed by the Additional Sessions Judge (F.T.C.), District-Durg (C.G.), in Sessions Case No. 153/2022, whereby the respondent No. 2-Pushpraj Sonwani has been acquitted for commission of offence punishable under Sections 376(2)(n) and 312 of IPC.

2. Prosecution story, in brief, is that the victim lodged a written complaint on 22.06.2022 (Ex. P/1) contending that her marriage was solemnized in the year 2019 and subsequently she was divorced. She in search of employment has gone to Bhilai where she got employment at Krishna School, Nehru Nagar, Bhilai, where the accused/respondent No. 2 was also working as a driver. The respondent No. 2 started developing relationship with the victim on pretext that he has already divorced his wife, therefore, he met her father for performing marriage. With the passage of time, relationship was developing between them. On 22.04.2021 at about 8 O'Clock when the accused came to drop the victim to her house he started making physical relationship with her, when she refused, he promised to marry her. Thereafter, he made physical relationship with her on so many occasions which resulted into pregnancy. Later on the pregnancy was aborted by the medicine given by the respondent No. 2. It is also the case of the prosecution that the accused has demanded money from her and he made physical relationship with her again on 19.05.2022 on pretext of marriage, but he has refused to marriage which has compelled her to lodge the complaint. On the basis of said complaint, FIR (Ex. P/2 & P/2A) on 22.06.2022 for commission of an offence under Section 376(2) of IPC was registered, against the respondent No. 2 at Police Station Bori, District Durg (C.G.),
3. During course of investigation, the prosecution collected the evidence and submitted charge sheet (Ex. P/24) before the Judicial Magistrate, Durg, who committed the case for trial to the Sessions Judge, Durg.
4. In order to bring home the guilt of accused/respondent No. 2, the prosecution has examined as many as 14 witnesses PW-1 to PW-14

and exhibited 24 documents from Ex.P/1 to Ex. P/24. The statement of the accused/respondent No. 2 was recorded under Section 313 Cr.P.C., wherein he denied the allegations and has taken plea of false implication. The learned trial Court on appreciation of evidence and material on record has acquitted the accused by recording its finding that the physical relationship between the respondent No. 2 who are the major persons is consensual in nature, therefore, the act committed by the respondent No. 2 does not fall within the ambit of rape as defined in Section 375 of IPC and accordingly, it has acquitted the accused from the charges of commission of offence of Section 376(2) of the IPC. Being aggrieved with the order of acquittal, the victim has filed this acquittal appeal.

5. From the evidence of victim (PW-1), it is quite clear that the physical relationship between the appellant and the respondent was of consensual in nature as in her cross-examination, in paragraph 16 she has admitted that the physical relationship was done with her consent. Again she has admitted that she was a married woman when the physical relationship was developed with the accused, no divorce has been taken place. She acknowledged that a person cannot remarry without divorcing their spouse. She has also admitted that she had not obtained a divorce before the physical relationship developed on 22nd April 2021. In para 19, she also admitted that she did not submit documents regarding abortion. She also admitted the facts about the payment of money to the accused to the tune of Rs.17,000/- and 18,000/- through phone pay, no document was produced before the trial Court. From the evidence of the victim, it is quite clear that she

was a consenting party for doing physical relationship with the accused.

6. The Investigating Officer (PW-12) Saroj Chaware admitted in cross-examination (para 3) that although the victim stated about the abortion, but she did not collect any evidence or query regarding the victim's abortion. The Investigating Officer (PW-14) Ashok Yadav also admitted in para 7 that he did not collect any evidence regarding the victim's abortion and stated that if any evidence is available then it should have been incorporated in the charge-sheet.
7. The victim was subjected to medical examination by the doctor wherein the doctor has given opinion that no external injury on the body of the victim was found as evident from Article-B which is admitted by the accused.
8. From the evidence brought on record, it is quite vivid that the act of victim will be termed as consensual act and does not fall within the rider of rape as per Section 375 of the IPC. It is pertinent to mention here that at the time of alleged incident, the victim was aged about 30 years old lady and was well aware of the consequence of the sexual act committed by the respondent No. 2 and in the evidence she has admitted that she has made physical relationship with the respondent No. 2 by giving the consent and coupled with the fact that she was already married woman. Thus, the act committed by the respondent No. 2 has rightly been held by the trial Court that the act committed by the respondent No. 2 does not fall within the category of rape as defined in Section 375 of IPC.
9. Even otherwise, it is well settled position of law that every consensual relationship qua alleged sexual exploitation on false pretext of marriage

cannot be given a colour of false pretext to marry in the event of fallout. The Hon'ble Supreme Court in case of *Biswajyoti Chatterjee Vs. State of West Bengal and Another* reported in (2025) 5 SCC 749 has held in paragraph 17 as under:

“17. In our considered view, even if the allegations in the FIR and the charge-sheet are taken at their face value, it is improbable that the Respondent No. 2 complainant had engaged in a physical relationship with the Appellant, only on account of an assurance of marriage. As rightly observed by this Hon'ble Court in the case of *Prashant Bharti Vs State (NCT of Delhi)*, that it is inconceivable, that the complainant or any woman would continue to meet the Appellant or maintain a prolonged association or physical relationship with him in the absence of voluntary consent on her part.”

10. The Hon'ble Supreme Court in case of **Jaspal Singh Kaural Vs. State of NCT of Delhi and Another** reported in (2025) 5 SCC 756 has taken the same view.
11. From the evidence of the victim, it is quite vivid that the victim's statement does not inspire confidence for conviction of the respondent No. 2 though it is well settled position of law that there can be a conviction solely based on the evidence of the victim, but the evidence must be reliable and trustworthy as held by the Hon'ble Supreme Court in case of **Santosh Prasad vs. State of Bihar** reported in **2020 (3) SCC 443**. In the present case we find that it is completely missing, on the contrary her admission is there about her consent, as such, she was a consenting party to the act.
12. Learned trial Court, considering the entire evidence, the age of the victim, and the consent given by the victim as admitted by her in her evidence, recorded a finding of acquittal in favour of the accused. The finding recorded by the trial Court neither suffers from perversity nor illegality, warranting interference by this Court. Considering the well-settled principle of law that in an acquittal appeal, normally the

appellate Court should not interfere unless the finding of acquittal is so perverse to lead absurd result of acquittal. The Hon'ble Supreme Court in case of **Mallapa and Others vs. State of Karnataka** reported in **2024 (3) SCC 544** has considered the parameters required for the appellate Court to interfere in the finding of acquittal as under:

“42. 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 or 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.”

13. Considering the entire evidence, reason assigned by the trial Court, the finding recorded by the learned trial Court does not suffer from perversity, illegality warranting interference by this Court.
14. Consequently, the instant appeal, being devoid of merits, is liable to be **dismissed** and is hereby dismissed at the admission stage itself.

Sd/-
(Narendra Kumar Vyas)
Judge

Sd/-
(Sanjay Kumar Jaiswal)
Judge