



2026:CGHC:5656-DB

NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****ACQA No. 128 of 2018**

State of Chhattisgarh, Through The In-charge Police Station Samripath, District :
Balrampur, Chhattisgarh

... Appellant

versus

Baliya Yadav S/o Sursan Yadav Aged About 30 Years R/o Village Birhorpath Police
Station Samripath, District Balrampur Ramanujganj Civil District Surguja Ambikapur
Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

... Respondent

For State/Appellant : Mr. Kanhiya Ram Yadav, Panel Lawyer

For Respondent : None

Hon'ble Smt. Justice Rajani Dubey, J.

Hon'ble Shri Justice Radhakishan Agrawal, J.

Judgment on Board

Per, Rajani Dubey, J.

02.02.2026

1. The present appeal has been preferred by the appellant/State against the judgment dated 09.10.2017 passed by learned Additional Sessions Judge, Ramanujganj, District- Surguja (C.G.) in Sessions Trial No. 95/2015, whereby the learned trial Court acquitted the accused /respondent of the charges under Sections 450 and 376 of IPC.
2. Brief facts of the case as adumbrated are that the prosecutrix lived with her husband at Village- Birhorpath and on the Saturday preceding the



date of incident i.e., 05.09.2015, her husband had gone to his in-laws' house in Serangdag. She was sleeping in her home after having dinner on the night of the incident, then at around 10:00 pm, the accused pushed the door of her house and forcibly entered, though the door of the house did not have a latch, therefore the accused entered the house of the prosecutrix and committed forcible sexual intercourse with her and when she raised an alarm, her sister-in-law reached to the spot, but by then the accused had already committed forcible sexual intercourse with her. After the said incident, the prosecutrix was frightened and due to this, she went to sleep at her sister-in-law's house and she did not disclose the said incident to her husband. However, the prosecutrix's sister-in-law apprised the said fact to the husband of the prosecutrix and then her husband asked her about the incident, then she apprised the said incident to him and her father also and therefore, her husband advised to lodge the report of the said incident. Thereafter, she went along with her husband and lodged the report at Police Station Samripath and the F.I.R. was registered by A.S.I. Ramesh Ekka vide Ex. P/1 against the accused after eight days of the said incident. During the investigation, spot map was prepared vide Ex.P/2 by A.S.I. Ramesh Ekka and for medical examination of the prosecutrix, he obtained consent letter from her and her husband vide Ex. P/10. Medical examination of the prosecutrix was conducted by Dr. Shashikala Toppo and gave her report vide Ex.P/6. During the examination of the prosecutrix, the vaginal slides were prepared by A.S.I. Ramesh Ekka and the same were seized by Constable Sanjay Tirki vide Ex.P/4. Statements of the witnesses were recorded and the seized articles were sent to F.S.L. for its chemical examination, acknowledgment receipt is Ex.P/15, spot maps were prepared. The



accused was arrested and his medical examination was also conducted. After completion of due and necessary investigation, charge-sheet was filed against the accused/respondent before the concerned Jurisdictional Magistrate, who, in turn, committed the case for trial. On the basis of the material contained in the charge-sheet, learned trial Court acquitted the accused/respondent of the offence under Sections 450 and 376 of IPC against which the present appeal has been filed by the State/respondent.

3. Learned counsel for the State/respondent submits that the judgment of acquittal passed by the learned trial Court is illegal, improper and incorrect and is liable to be set aside. The learned trial Court has committed an error in deciding the facts in the case and law points. The learned trial Court passed the order of acquittal resulting in miscarriage of justice. The learned trial Court has disbelieved the version of the prosecutrix, in which she clearly deposed that the accused forcibly entered the house and committed forcible sexual intercourse with her, but the learned trial Court has given significance to minor contradictions and omissions and passed the impugned judgment. He would further submit that the learned trial Court has failed to appreciate the deposition propounded by PW-6 (sister-in-law) and has also failed to consider the M.L.C. report given by Dr. Sohanlal (PW-6), whereby it was reported that the accused is capable to perform sexual intercourse. Learned trial Court overlooked the case of the prosecution and evidence against the accused by which the case of the prosecution is fully established against him beyond any reasonable doubt, but the learned trial Court has overlooked this aspect and passed an order in a mechanical manner which is bad-in-law and liable to be dismissed. Therefore, looking to the facts and circumstances of



the case, the judgment and finding of the learned trial Court is perverse and is liable to be set aside.

4. *Per contra*, learned counsel for accused/respondent supported the impugned judgment and submits that the learned trial Court upon due appreciation of oral and documentary evidence rightly acquitted the respondent/accused of the aforesaid charge levelled against him and as such, there is no need to interfere with the impugned judgment.
5. None present for the respondent, despite service of notice upon him.
6. We have heard learned counsel appellant/State and perused the material available on record.
7. It is clear from the record of the learned Trial Court that it framed charge against the accused/respondent under Sections 450 and 376 of IPC and after appreciation of oral and documentary evidence available on record, the learned Trial Court acquitted the accused/respondent of the aforesaid charges on this ground that the prosecution has failed to prove its case beyond reasonable doubt.
8. PW-1, the prosecutrix has stated that prior to 07-08 months of the incident, some altercation took place between the accused and her husband, then she went to Police Station- Samari along with her husband and lodged an F.I.R. (Ex. P/1), wherein she admitted her signature on A to A part. She further stated that she did not give any consent for her medical examination, but she admitted her signature on A to A part in consent letter (Ex. P/3). The prosecution declared her hostile and cross-examined, but she denied all suggestions of the prosecution and also denied her police statement (Ex. P/4) and all allegations in F.I.R. (Ex. P/1) on B to B part.



9. PW-2, husband of the prosecutrix has stated that there is subsisting enmity with the accused with regard to the land, therefore, he lodged the report through his wife (prosecutrix) at Police Station- Samari. The prosecution declared him hostile and cross-examined, but he denied all suggestions of the prosecution and also denied his police statement (Ex. P/5).
10. Other witnesses i.e., PW-4, sister-in-law of the prosecutrix, PW-7 Suresh Yadav and PW-8 Sukhdev have also not supported the prosecution case. The prosecution declared them hostile and cross-examined, but they denied all suggestions of the prosecution.
11. PW-3 Dr. Shashikala Toppo has examined the prosecutrix (PW-1) and she did not find any external or internal injury upon her body and she opined that no definite opinion could be given regarding recent sexual intercourse. She gave her report vide Ex. P/6, wherein admitted her signature on A to A part.
12. From close scrutiny of statements of all the witnesses, clearly shows that the prosecutrix as well as her husband have not supported the prosecution case and the prosecutrix herself denied allegations against the accused/respondent in her F.I.R. (Ex. P/1). It is also clear from record that the medical report has also not supported the prosecution case. As such, learned trial Court minutely appreciated the oral and documentary evidence, rightly finds that the prosecution has utterly failed to prove its case beyond reasonable doubt against the accused/respondent.
13. 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 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.”

14. 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 this Court is not inclined to interfere with the impugned judgment.
15. Accordingly, the acquittal appeal is devoid of any merit and the same is liable to be and is hereby **dismissed**.

Sd/-

(Rajani Dubey)
JUDGE

Sd/-

(Radhakishan Agrawal)
JUDGE