



2026:CGHC:15713-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 180 of 2022

- XYZ

... Appellant/Victim

versus

1. State of Chhattisgarh, Through the Station House Officer, Police Station Tamnar, District Raigarh, Chhattisgarh.
2. Abhishek Patnaik, S/o Mahaveer Patnaik, aged about 32 Years, R/o Tamnar, Police Station and Tahsil Tamnar, District Raigarh, Chhattisgarh.

... Respondents

| | |
|---------------------------|---------------------------------------------------------------------------------|
| For Appellant | : Mr. Rudra Pratap Dubey, Advocate on behalf of Mr. Goutam Khetrapal, Advocate. |
| For Respondent No.1/State | : Mr. Ram Narayan Sahu, Deputy Government Advocate. |

Hon'ble Smt. Justice Rajani Dubey &

Hon'ble Shri Justice Radhakishan Agrawal

Judgment on Board

07.04.2026

Per Radhakishan Agrawal, J.

Heard on admission.

1. The present acquittal appeal has been filed by the appellant/victim against the judgment dated 13.05.2022 passed by the learned Additional Sessions Judge, Gharghoda, District Raigarh (C.G.) in Sessions Trial No.33/2018, whereby respondent No.2/accused- Abhishek Patnaik has been acquitted

of the offences punishable under Sections 376(2)(n) and 493 of Indian Penal Code (for short, 'IPC')."

2. Case of the prosecution, in brief, is that on 12.01.2018, victim, aged about 27 years, initially lodged a written report (Ex.P-1) before the Superintendent of Police alleging that the accused/respondent No.2 induced her on the promise of marriage and asked her to leave her house. Acting on such assurance, she left her house on 04.01.2018, stayed at her friend's house in Raigarh, and thereafter went to Bilaspur on being called by the accused. From there, the accused took her to Mumbai by train, where he allegedly applied vermilion (sindoor) in her hair parting and made her wear a *mangalsutra*. Thereafter, they travelled to Goa by flight and stayed in a hotel till 09.01.2018, during which period, accused/respondent No.2 established physical relations with her. It is further alleged that after returning to Raigarh on 11.01.2018, accused/respondent No.2 left her at the railway station on the pretext of going to the bathroom and did not return. Subsequently, on 18.01.2018, victim lodged another written complaint (Ex.P-2) at Police Station Tamnar, alleging that prior to the said journey, on 03.01.2018 at about 11:30 PM, the accused/respondent No.2 came to the terrace of her house, assured her of marriage and forcibly established physical relations with her. On the basis of these complaints, FIR (Ex.P-3) was registered against the accused/respondent No.2.
3. During the course of investigation, after obtaining the consent of the victim (Ex.P-4), she was sent for medical examination, whereupon PW-2 Dr. S.T. examined her and did not find any external or internal injuries and accordingly, gave MLC report vide Ex.P-9. Accused/respondent No.2 was taken into custody vide Ex.P-12. Vaginal slides of the victim were seized

vide Ex.P-7, and the underwear of the accused/respondent No.2 was seized vide Ex.P-11. Seized articles were sent to the FSL for chemical examination, and as per the FSL report (unexhibited), no human spermatozoa was found on the vaginal slides of the victim.

4. Statements of the witnesses were recorded and after completion of investigation, a charge-sheet was filed against the accused/respondent No.2 before the concerned trial Court. The accused/respondent No.2 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.2 of 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.2 of the aforesaid charges by recording perverse findings. He further submits that sufficient and cogent evidence is available on record, particularly the testimony of PW-1 (victim), to establish that accused/respondent No.2, on the false pretext of marriage, established physical relations with her on several occasions and thereafter left her. Despite the availability of such evidence, the trial Court has wrongly acquitted the accused/respondent No.2. Thus, the impugned judgment of acquittal suffers from perversity and illegality and is liable to be set aside.
7. Learned counsel for the State/respondent No.1 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 Supreme Court in the matter of *Jafarudheen and others vs. State of Kerala reported in (2022) 8 SCC 440* has considered the scope of interference in Appeal against acquittal, which reads as under:-

“25. While dealing with an appeal against acquittal by invoking Section 378 CrPC, the appellate court has to consider whether the trial court's view can be terms as a possible one, particularly when evidence on record has been analysed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the appellate court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters.”

10. Case of the prosecution mainly rests on the testimony of the victim (PW-1). In her examination-in-chief, she stated that on 03.01.2018, at about 11:30 PM, accused/respondent No.2 came to the terrace of her house, assured her of marriage and forcibly established physical relations with her. She further stated that thereafter she travelled with the accused/respondent No.2 to Mumbai and Goa, where he continued to establish physical relations with her on the assurance of marriage, and later abandoned her at Raigarh Railway Station. However, in her cross-examination, victim admitted that in her first written complaint (Ex.P-1) dated 12.01.2018, she had not mentioned the alleged incident of 03.01.2018. She further admitted that on that night, her family members were present in the house, that she herself opened the door for the accused/respondent No.2 and that he remained there for about ten minutes, but she did not inform any family member about the alleged incident. She also admitted that she had been in a love relationship with the accused for about five years and that they trusted each other. She further admitted that the Goa trip was planned in advance and the hotel

had already been booked. Though she initially denied continuous physical relations, but she admitted that earlier also she had gone with the accused to *Shirdi* and physical relations had taken place there. She also admitted that several facts stated by her before the Court, such as forcible consumption of liquor, confinement in the hotel, assurance of marriage after return, and conversation with the father of the accused, were not mentioned in her earlier statements (recorded under Section 161 & 164 Cr.P.C.). She further admitted that she had travelled with the accused to several places, including Bilaspur, Raigarh, Mumbai, Goa and Puri. She also admitted that the accused had transferred money into her bank account as well as into the account of her sister.

11. Accused/respondent No.2 examined himself as a defence witness (DW-2).

He stated that he and the victim were in a consensual relationship since the year 2013 and had physical relations with mutual consent. He further stated that they had travelled together on earlier occasions to places such as Shirdi, Puri and Goa, and in support of his defence, he produced railway tickets, flight tickets, hotel booking receipts and other hotel documents, which were exhibited as Exs. D-4 to D-29. He also stated that his engagement with another woman had already taken place on 13.07.2017 and that this fact was within the knowledge of the victim. He further produced bank statements showing transfer of money to the victim as well as to her sister, which were exhibited as Exs. D-30 to D-37.

12. Upon overall consideration of the evidence on record, including the statement of the victim (PW-1) and the defence evidence of the accused/respondent No.2 (DW-2), it is evident that there was a long-standing love relationship between the victim and the accused/respondent No.2, and the victim appears to have been a consenting party with regard

to the alleged act. It also appears that she travelled with the accused/respondent No.2 to different places on her own free will. Further, her conduct shows that she did not raise any alarm or offer any resistance at the time of the alleged incident, even though her family members were present in the house, and she did not inform anyone immediately thereafter. This conduct creates doubt about the prosecution story. The defence of the accused/respondent No.2 is supported by documents such as travel tickets, hotel bookings and bank transactions. It is also clear from the evidence on record that the victim was aware that the accused/respondent No.2 was already engaged to another woman, yet she continued the relationship. Furthermore, there is no reliable material to show that the accused/respondent No.2 obtained her consent on a false promise of marriage. On the contrary, there are material contradictions and omissions in the statements of the victim, and her statement before the Court does not corroborate with her earlier complaints (Exs. P-1 & P-2) and the statements recorded under Sections 161 and 164 Cr.P.C.

13. The learned trial Court, after elaborately discussing and analysing the evidence led by the prosecution, has rightly come to the conclusion that the victim was a consenting party with regard to the alleged acts and that the prosecution has failed to prove its case beyond reasonable doubt, and accordingly acquitted the accused/respondent No.2 of the charges levelled against him.

14. 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."

15. 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 appears to be a plausible and possible view. In the absence of any patent illegality or perversity, this Court is not inclined to interfere with the impugned judgment.

16. Accordingly, the acquittal appeal filed by the appellant/victim against the acquittal of accused/respondent No.2 is hereby dismissed at the admission stage.

Sd/-

(Rajani Dubey)
Judge

Sd/-

(Radhakishan Agrawal)
Judge