

(2018) 06 CHH CK 0238

Chhattisgarh High Court

Case No: ACQA No.154 Of 2014

Uma Bai Sahu

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision: June 29, 2018

Acts Referred:

- Indian Penal Code, 1860 - Section 376, 450

Hon'ble Judges: Prashant Kumar Mishra, J; Vimla Singh Kapoor, J

Bench: Division Bench

Advocate: Meena Shastri, Rahul Tamaskar, Vijay Laxmi Shrofe

Final Decision: Dismissed

Judgement

Prashant Kumar Mishra, J

1. This is an appeal by the victim/prosecutrix against acquittal of the respondent No.2 for offence under Sections 450 & 376 of the Indian Penal Code

(IPC).

2. Albeit for an incident, which took place at about 8.00 am on 18-8-2013, the First Information Report (FIR) (Ex.P/1) was promptly lodged at 10.00

am by the victim/prosecutrix, yet considering her admission in para 15 of cross-examination that in course of preparatory exercise by the accused

when he removed his own clothes and undressed the victim (appellant herein) she did not resist nor made any effort to save herself from the clutches

of the accused, even though at that time she was sitting on a plastic chair. Sexual intercourse in the position in which she was admittedly placed at the

time of occurrence is not possible unless it is a case of consent.

3. Mere fact that the appellant has lodged the FIR immediately after occurrence may not explain her conduct at the time of occurrence. There may be

several factors which might have prompted the appellant to lodge FIR, despite having consented for sexual intercourse.

4. In any case, in an appeal against acquittal, we are required to consider whether the trial Court's finding is so perverse that a man of ordinary

prudence would not reach to such conclusion on the basis of evidence put forth by the prosecution, however, having seen the evidence, we are not

inclined to take a different view of the matter than the one which has been taken by the trial Court.

5. In our considered view, no case for entertaining this acquittal appeal is made out. Accordingly, the acquittal appeal is liable to be and is hereby

dismissed.