

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 634 of 2016

- State of Chhattisgarh, Through District Magistrate, North Bastar, Kanker (CG)

---- Petitioner

Versus

1. Rajesh Satnami, S/o Parsadiram Satnami, aged about 41 years, R/o Village Mudkhusra, P.S. Charama, District North Bastar, Kanker (CG)

---- Respondent

For Petitioner

Mr. Vivek Sharma, Government Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

22/7/2016

1. Heard.
2. The present is an application under Section 378(3) of the Code of Criminal Procedure against the judgment of acquittal passed by the Fast Track Court, For trial of Sexual Offences (rape cases), Uttar Bastar, Kanker in ST No.34/2014.
3. The prosecutrix, aged about 40 years, lodged an FIR on 11.03.2014 alleging that on 07.03.2014, at about 5:00 p.m., the accused/respondent took her to the house of one Santu and tried to commit forcible sexual intercourse. When the prosecutrix raised alarm, the accused gagged her mouth and thereafter, committed forcible sexual intercourse. Hearing commotion, villagers Jeevan Lal and Sulochana Bai came to the spot and

witnessed them, on which, the incident was informed by the prosecutrix to Sulochana Bai and later on, to her husband after reaching home. A meeting was convened in the village, where the accused did not turn up, on which, a second meeting was convened, wherein also, the accused did not turn up.

- 4. The two eye-witnesses namely Sulochana Bai (PW-1) and Jeevan Lal (PW-2) have not supported the case of the prosecutrix of forcible sexual intercourse. As a matter of fact, Jeevan Lal (PW-2) has stated in his cross-examination that the prosecutrix and the accused had entered into the house of Santu on their own will.
- 5. Apart from the statements of Sulochana Bai (PW-1) and Jeevan Lal (PW-2), who have not supported the case of the prosecutrix, the FIR is also delayed by 4 days.
- 6. In view of the settled legal position that when two views are possible in the case and the trial Court has taken one of the views, the judgment of acquittal should not be converted into a judgment of conviction. (Please see : **State of M.P. Vs. Bachhudas alias Balram and others, (2007) 9 SCC 135**), we are of the opinion that the present is not a fit case for grant of leave to appeal, because, the view taken by the trial Judge emanates from the state of evidence on record and the same does not appear to be perverse.
- 7. Accordingly, the CRMP is dismissed.

Sd/-	Sd/-
Judge	Judge
(Prashant Kumar Mishra)	(Chandra Bhushan Bajpai)