

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 623 of 2018

- State Of Chhattisgarh Through The District Magistrate, Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Petitioner

Versus

- Amit Kashyap S/o Jagarnath Kashyap R/o Village Budhtola, Ward No. 3, P. S. Ramanujganj, District Balrampur Ramanujgunj Chhattisgarh

---- Respondent

For State / Petitioner : Shri Anil Pillai, Dy.A.G. for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

06/12/2018

There is an application (I.A.No.1/18) for condonation of delay in filing this petition.

Upon due consideration of the grounds urged in the application, the same is allowed.

Delay is condoned.

1. Heard on application for grant of leave to appeal.

Learned State counsel argued that the order of acquittal passed by the learned Trial Court suffers from perversity and patent illegality in as much as the prosecutrix in her testimony has clearly stated that the respondent has committed sexual intercourse with her without her consent. He submits that even if the prosecutrix had gone along with the accused/respondent to different places and resided with him, it cannot be assumed that she was also a consenting party. Therefore, it would amount to rape.

2. We have gone through the impugned judgment and evidence on record, particularly the testimony of the prosecutrix herself.

3. The prosecutrix in her cross examination has admitted that she is known to

the respondent and that she had gone along with him to various places i.e. from one station to the other and during that period, sexual intercourse was committed. The prosecutrix is a major girl. Relying upon the decision of this Court in the case of **Shivcharan @ Jarha v. State of Madhya Pradesh, 2012 (4) CGLJ 140**, learned Trial Court, upon close scrutiny, has recorded finding that the conduct of the prosecutrix makes it seriously doubtful and it appears to be most of a case of consent between the respondent and the prosecutrix, particularly, when she traveled along with the respondent to different places through public conveyance without raising any objection or offering any resistance.

4. We find that the view taken by the learned Trial Court is plausible and does not suffer from any perversity or patent illegality. We do not find any ground to interfere with the judgment of acquittal. The application for grant of leave to appeal is rejected. The petition is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge