

**NAFR****HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 2388 of 2018**

- The State of Chhattisgarh, Through - Police Station City Kotwali, Dhamtari, District Dhamtari (C.G.)

**---- Appellant****Versus**

- Jai Saheb, S/o Late Bharat Saheb, aged about 37 years, resident of Near Naagdev Mandir, Hatkeshar, Dhamtari, Police Station City Kotwali, Dhamtari, District Dhamtari (C.G.)

**---- Respondent**


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For Appellant/State : Shri Wasim Miyan, P.L.  
For Respondent : None

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**DB : Hon'ble Shri Justice Manindra Mohan Shrivastava**  
**Hon'ble Smt Justice Rajani Dubey**

**Order on Board by Manindra Mohan Shrivastava, J**

**26/11/2018**

1. Heard on I.A.No.01/2018, application for condonation of delay in filing application for grant of leave to appeal.
2. Upon due consideration, I.A.No.01/2018 is allowed and delay in filing application for grant of leave to appeal is condoned.
3. Also heard on prayer for grant of leave to appeal.
4. Application for grant of leave to appeal has been filed by the State in the matter of acquittal of respondent vide judgment dated 02.05.2018 passed in Sessions Trial No.67/2017 by Additional Session Judge (F.T.C.), Dhamtari (C.G.)

5. Learned counsel for the State would submit that even though the prosecutrix - PW/2 (name is not being disclosed) has clearly stated in her evidence that the accused/respondent committed rape on her and threatened her that if she discloses and does not continue to have sexual relation, he will disclose the video clippings, the learned trial Court has acquitted the accused/respondent by extending him benefit of doubt ignoring that the evidence of the prosecutrix could not be ignored only on the ground of delay, once it was sufficiently explained.
6. We have gone through the impugned judgment and the evidence particularly that of the Prosecutrix (PW/2).
7. The learned trial Court has acquitted the accused/respondent by extending him benefit of doubt for the reason that the prosecutrix appears to be a major and a married lady and the report was lodged after more than one and half years in the background that the prosecutrix and the accused/respondent had a long standing relationship during which they had sexual intercourse. The learned trial Court has also examined the aspect of delay and having found that no sufficient explanation for such a long delay of one and half years has been proved, benefit of doubt has been extended to the accused/respondent.
8. The delay as sought to be explained by the prosecutrix is that as the accused/respondent had prepared a video clipping of she being in compromising situation with the accused/respondent and she was repeatedly threatened that the same would be disclosed if she does not act according to the accused, has been disbelieved as the prosecution has failed to bring any such video clipping seized from the possession of the accused/respondent so as to sufficiently explain the delay in lodging FIR.
9. Therefore, the view taken by the trial Court does not

appear to be perverse or suffering with patent illegality so as to warrant interference. We, accordingly, do not consider present to be a fit case to grant leave to appeal.

10. Accordingly, CRMP is dismissed at the admission stage itself.

**Sd/-**

**(Manindra Mohan Shrivastava)**

Judge

**Sd/-**

**(Rajani Dubey)**

Judge