

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 425 of 2018

- State Of Chhattisgarh Through- Police Station- Akaltara, District- Janjgir-Champa, Chhattisgarh

---- Petitioner

Versus

1. Anandgir Goswami, S/o Shri Manojgir Goswami, Aged About 22 Years
2. Lachhusingh Markam, S/o Harisingh Markam, Aged About 21 Years

Both R/o Village Farhada, Police Station - Akaltara, District- Janjgir-Champa, Chhattisgarh

---- Respondents

For Applicant

Shri Santosh Bharat, PL

Hon'ble Justice Shri Prashant Kumar Mishra

Hon'ble Justice Shri Gautam Chourdiya

Order On Board by Prashant Kumar Mishra J.

31/07/2019

1. On due consideration, delay of 25 days in filing the CRMP is condoned. Accordingly, IA No.1/2018 is allowed.
2. The Trial Court has acquitted the accused of the charges under Sections 363 & 366 of IPC and Section 6 of the Protection of Children From Sexual Offences Act, 2012.
3. The accused persons were sent for trial for committing gang rape with the prosecutrix, aged less than 18 years, at about 11 pm on 01.11.2015. According to the prosecution case, Ramayana

Recitation was going on in the village. The prosecutrix had gone to listen Ramayana Recitation with her friends Preeti Singh, Poonam and Sadhna. During the said programme, the prosecutrix and Ms. Sadhna went to attend nature's call and at the said place, the accused persons reached and took away the prosecutrix on a motorcycle and thereafter committed rape one after another by lying her down on an agricultural field.

4. The prosecutrix has been found to be less than 18 years of age, however, Dr. Lalita Toppo, the Medical Officer who has examined the prosecutrix on the very next day of the incident, has not found any sign of sexual intercourse. The prosecutrix was not found to have sustained any external or internal injury including any injury on her private parts. The FSL report of the vaginal swab was also negative. PW-3 Preeti Singh and PW-5 Sadhna, who had gone to attend the Ramayana Recitation along with the prosecutrix, have not supported the case of the prosecution. In the statement of prosecutrix, examined as PW-1, she would admit that in an incident where her mother was allegedly found in an objectionable position with her uncle, a meeting had taken place in the village. The mother of the accused Anand Gir was called in the said meeting because she had seen the above incident involving prosecutrix's mother and uncle. She would also state that after the said incident, the two families are not in talking terms.
5. Considering the fact that the independent witnesses are not supporting the prosecutrix and her version of the incident is not finding corroboration from the medical evidence also, as also for

the evidence of previous enmity between the two families, the view taken by the Trial Court appears to be one possible view in the matter, therefore, the present is not considered to be a fit case for grant of leave to appeal.

6. Accordingly, the CRMP is dismissed.

Sd/-
Prashant Kumar Mishra
Judge

Sd/-
Gautam Chourdiya
Judge

Nirala