

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 812 of 2019

- State of Chhattisgarh, Through the Incharge, Police Station- Pusour, District : Raigarh, Chhattisgarh

---- Petitioner

Versus

- Lingraj Sao, S/o Bhagwat Sao, Aged About 39 Years, R/o Village- Bunga, Police Station- Pusour, District : Raigarh, Chhattisgarh

---- Respondent

For Petitioner/State : Shri Anand Verma, Dy. G.A.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board by Hon'ble Shri Justice Manindra Mohan Shrivastava

08.05.2019

1. Heard on application for condonation of delay in filing appeal.
2. Upon due consideration, the application is allowed.
3. Delay is condoned.
4. Also, heard on application for grant of leave to appeal.
5. Learned counsel for the State would argue that even though the prosecutrix has stated regarding commission of rape on her by the respondent/accused, who entered in her house in the night, the learned trial Court has acquitted granting benefit of doubt, treating it to be a case of consent based on minor contradictions and omissions elicited in her cross examination.
6. We have gone through the entire judgment of acquittal and evidence particularly that of the prosecutrix (PW-4). In the cross examination, it has been elicited that after the appellant came to the house of the prosecutrix, there was a sexual intercourse and all through this period, no hue and cry was raised, no injury was found and the prosecutrix has admitted that she did not resist. The prosecutrix has also admitted that in the house, many other members including her own husband were also sleeping. It has also been elicited in the cross examination that when the accused was leaving

the house of the prosecutrix, he was seen by her brother-in-law who after seeing the respondent/accused raising alarm and the matter was exposed.

7. On the face of such statement made by the prosecutrix in her cross examination, the view which has been taken by the learned trial Court is a plausible view that the prosecutrix who was the major, was having a relation with the respondent/accused, and only when the respondent/accused was caught leaving the house in the night, matter was reported. Benefit of doubt given by the learned trial Court resulting in acquittal, therefore, does not appear to be suffering from any patent illegality, perversity so as to warrant interference by this Court, keeping in view the limited scope of interference against the judgment of acquittal. We, accordingly, do not consider present to be a fit case to grant leave to appeal.
8. Accordingly, CRMP is dismissed at the admission stage itself.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge