

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 830 of 2019

- State Of Chhattisgarh Through Police Station - Kusmi, District Balrampur - Ramanujganj Chhattisgarh.

---- Applicant

Versus

- Mohd. Mudassir S/o Shri Riyayat Hussain, Aged About 23 Years R/o Village Shiv Chowk, Kusmi, Police Station - Kusmi, District Balrampur - Ramanujganj Chhattisgarh.

---- Respondent

For Applicant-State :- Shri K.K.Singh, G.A.

Hon'ble Shri Prashant Kumar Mishra &
Hon'ble Smt Rajani Dubey, JJ.

Order on BoardByPrashant Kumar Mishra, J14/05/2019

1. Heard learned counsel for the applicant on I.A. No.1 for condonation of delay of 77 days in filing the application for leave to appeal.
2. On due consideration, the application is allowed. Delay in filing the application is condoned.

3. Heard learned counsel for the applicant on admission.
4. Trial Court has acquitted the accused of the charges under Section 376 in the alternative Section 493 of I.P.C.
5. Prosecutrix lodged an FIR on 14.12.2012 stating that the accused committed forcible sexual intercourse from 05.09.2012 to 09.12.2012 in his own house and during this period accused was always promising to marry her.
6. (PW-2) Dr. A. Kachhap, has not accorded any definite opinion about commission of recent intercourse. The prosecutrix has not entered the witness box to substantiate the allegation levelled by her in the FIR and in her statement under Section 161 Cr.P.C. Even if the prosecutrix was less than 14 years, the fact of commission of forcible sexual intercourse having not been proved by cogent and reliable evidence, we are satisfied that the trial Court has not committed any error in acquitting the accused.
7. Having considered the material on record, we do not find any ground for granting leave to appeal. Hence, the application is dismissed.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Rajani Dubey)
Judge