

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No.876 of 2019

State Of Chhattisgarh Through-Its Station House Officer, Police
Station Kukdur, District Kabirdham Chhattisgarh ---- **Petitioner**

Versus

Sundar Lal, S/o Harisingh Padwar, Aged About 26 Years, R/o Village
Polmi, Police Station Kukdur, District Kabirdham Chhattisgarh

--- Respondent

For State/Petitioner : Mr. Vikas Shrivastava, Panel Lawyer

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

18/06/2019

Heard on application for condonation of delay in filing appeal.

Upon due consideration, the application is allowed.

Delay is condoned.

Also heard on application for grant of leave to appeal.

1. Learned State counsel would argue that even though the prosecutrix has clearly stated that the appellant entered the house in the night and outraged her modesty with an intent to commit rape on her, learned Trial Court has granted acquittal only on the ground that the prosecutrix and the accused earlier had an affair and they had lived together for many days.

2. We have gone through the impugned judgment and the evidence on record, particularly that of the prosecutrix as also her father-in-law, Lachhnu (PW2). The prosecutrix in her cross-examination has admitted regarding an affair between her and the accused so much so that in the past, they had left their respective house and eloped and resided together for many days before returning back. The evidence of father-in-law, Lachhnu (PW2) is that in the night, when he heard noises and came out then he saw the respondent accused was present in his house. It is only at this stage that the

prosecutrix raised an alarm. In this background and the evidence, learned Trial Court has granted respondent accused benefit of doubt, we do not find suffers from any patent illegality or perversity so as to call for interference, given the limited scope of interference against the judgment of acquittal. No case is made out for grant of leave to appeal. Therefore, the CRMP is dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge

Rekha