

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1065 of 2019**

- State Of Chhattisgarh Through Station House Officer, Police Station Pendra District Bilaspur, Chhattisgarh.

---- Petitioner**Versus**

- Rajbir @ Shiva Singh Digwa S/o Vinod Singh Digwa Aged About 24 Years R/o Oliyapur, Police Station Haldaur, District Bijnaur Uttar Pradesh.

---- Respondent

For Petitioner-State :- Ms. Madhunisha Singh, PL

Hon'ble Shri Prashant Kumar Mishra**Hon'ble Shri Gautam Chourdiya, JJ.****Order On Board****By****Prashant Kumar Mishra, J.****02/07/2019**

1. Heard.
2. On due consideration, I.A. No.1 of 2019 for condonation of delay in filing the application for leave to appeal is allowed and delay of 162 days in filing the application is condoned.
3. Heard learned State counsel on admission.

4. The trial Court has acquitted the accused from the charges under Section 376 (1) of I.P.C. and under Section 3 (2) (v) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and also under Section 4 of Protection of Children from Sexual Offences Act, 2012.
5. Although, the prosecutrix appears to be less than 18 years of age on the date of incident as per her admission in paragraph 5 of her deposition but before that the prosecutrix has not made any allegation against the accused in paragraph 1 to 4. She has denied that the accused has ever performed forcible sexual intercourse with her. Not only the prosecutrix but her mother Maikin Bai (PW-8) has also turned hostile and has not supported the prosecution. The other witnesses are police officers or have taken part in investigation.
6. Considering the nature of evidence available, the trial Court has rightly acquitted the accused.
7. There is no substance in this application seeking leave to appeal, therefore, it fails and is hereby dismissed.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge