

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 1333 of 2019

1. State Of Chhattisgarh Through The Police Outpost Birejhar, Police Station Kurud, District Dhamtari Chhattisgarh.

---- Petitioner

***Versus***

1. Sitaram Tandan S/o Sunit Ram Tandan Aged About 28 Years R/o Village Kotgaon, Police Outpost Birejhar , Police Station Kurud, District Dhamtari Chhattisgarh.

---- Respondent

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For Petitioner/StateShri Suryakant Mishra, Panel Lawyer

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Hon'ble Shri Prashant Kumar Mishra, J.Hon'ble Shri Gautam Chourdiya, J.Order on BoardByPrashant Kumar Mishra, J.24-7-2019I.A.No.1

1. This is an application for condonation of delay in filing the appeal.
2. For the reasons mentioned in the application, the delay of 3 days in filing the appeal is condoned.
3. Accordingly, I.A.No.1 stands disposed of.

4. Trial Court has acquitted the accused from the charge under Section 376 of the Indian Penal Code.
5. The prosecutrix, a married lady, aged about 50 years, happens to be the relative of the accused. On the date of incident she was proceeding on foot to her village and met the accused midway when he stopped his motorcycle and offered lift to the prosecutrix. As per the prosecution, instead of taking the prosecutrix to her residence she was taken to three different villages and the accused demanded sexual favour twice and on the third occasion the accused inserted his right hand fingers in the private parts of the prosecutrix.
6. PW-10 Dr. Saroj Diwan has found that the prosecutrix was complaining of pain in the P/V examination, but she has not found any injury either external or internal over the private parts of the prosecutrix.
7. There being delay of two days in lodging the First Information Report (FIR) and for the fact that other witnesses are hearsay the trial Court has found that it would not be safe to convict the accused on the basis of uncorroborated testimony of the prosecutrix.
8. From the evidence available on record two views may be possible but it is also settled that when two views are possible and the view taken by the trial Court is one such possible view, the High Court in exercise of its jurisdiction under acquittal appeal is not entitled to unsettle the view of the trial Court.
9. Considering the nature of evidence available on record, it is manifest that the trial Court has rightly acquitted the accused.

There is no substance in this application seeking leave to appeal.

10. In the result, the appeal, *sans* merit, is liable to be and is hereby dismissed.

Sd/-

(Prashant Kumar Mishra)  
Judge

Sd/-

(Gautam Chourdiya)  
Judge

Gowri