

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1417 of 2019**

- State Of Chhattisgarh Through Police Station Lalpur, District Mungeli Chhattisgarh

---- Petitioner

Versus

- Shiv Shankar Sahay S/o Govind Prasad Dahariya Aged About 21 Years R/o Village Barampur, Police Station Lalpur, District Mungeli Chhattisgarh

---- Respondent

For PetitionerMr. Avinash Choubey, Panel Lawyer

**DB: Hon'ble Mr. Justice Prashant Kumar Mishra &
Hon'ble Mr. Justice Gautam Chourdiya**

Order On Board By Prashant Kumar Mishra, J.**7/8/2019**

1. Heard.
2. The trial Court has acquitted the accused of the charges under Sections 450 and 376 of IPC.
3. Complete reading of the deposition of the prosecutrix examined as PW-4 would reveal that she did not offer resistance nor shouted at the time of sexual intercourse. She admits that if her *Nandoi* Karan and other members of her in-laws' family would not have entered the room and found out the accused beneath the cot where he was hiding, she would not have

informed the incident to them. The evidence would otherwise suggest that she was sleeping with minimum clothes and after the intercourse was over, she was in conversation with the accused and at this point of time, her child started crying, hearing which as also the conversation, the members of her in-laws' family entered the room. When her *Nandoi* Karan entered the room, she allowed the appellant to lie beneath the cot.

4. The trial Court has rightly found that the prosecutrix, a married lady aged about 24 years, appears to be a consenting party.
5. No case for grant of leave to appeal is made out.
6. The CRMP is dismissed.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Gautam Chourdiya)
Judge