

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1495 of 2019**

- State Of Chhattisgarh Through Police Station - Pendra, District - Bilaspur Chhattisgarh

---- Petitioner

Versus

- Shivam @ Shiva S/o Shri Samaar Singh, Aged About 20 Years R/o - Navapara, Sadhwani, Police Station - Gourela, District - Bilaspur Chhattisgarh

---- Respondent

For PetitionerMr. KK Singh, Government Advocate

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

Order On Board By**Prashant Kumar Mishra, J****3/7/2019**

1. The default having been removed by filing necessary papers, we have proceeded to hear learned counsel for the State on the application (IA No.1) for condonation of delay as also on admission.
2. On due consideration, IA No.1, an application for condonation of delay of 228 days in filing the application for leave to appeal against the judgment of acquittal, is allowed and the delay is condoned.

3. The trial Court vide its judgment dated 30.6.2018 passed in Special Sessions Case No.5/2018 has acquitted the accused from the charges under Sections 363, 366 & 376 of IPC and Sections 4, 6 of the Protection of Children from Sexual Offences Act, 2012.
4. In para 11 of the judgment, the trial court has found that the prosecutrix was less than 18 years of age on the date of the incident. During her examination, the prosecutrix has stated in para 7 and 13 of her cross-examination that the accused has tried to penetrate.
5. Therefore, considering the material available on record, we are inclined to grant leave to appeal.
6. Accordingly, the CRMP is allowed.
7. Let regular acquittal appeal be registered and notice thereof be sent to the respondent on payment of P.F. as per rules.
8. Bailable warrant for a sum of Rs.25,000/- be issued against the respondent for his appearance before this Court on 23.9.2019.

Sd/-

(Prashant Kumar Mishra)

Judge

Sd/-

(Gautam Chourdiya)

Judge