

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 1491 of 2019**

- State Of Chhattisgarh Through The Incharge Police Station
Somni District Rajnandgaon Chhattisgarh.

---- Petitioner**Versus**

1. Amit Nishad S/o Late Pyari Nishad Aged About 28 Years R/o
Village Khuteri, Police Station Somni, District Rajnandgaon
Chhattisgarh.
2. Pannalal Yadu S/o Meghnath Yadu Aged About 28 Years R/o
Village Khuteri Police Station Somni, District Rajnandgaon
Chhattisgarh.

---- Respondents

For Petitioner :- Shri K.K. Singh, G.A.

**Honble Shri Prashant Kumar Mishra &
Hon'ble Shri Gautam Chourdiya, JJ.**

Order On Board By

Prashant Kumar Mishra, J

03/07/2019

1. Heard.
2. On due consideration, delay of 225 days in filing the
application seeking leave to appeal is condoned.

3. Accordingly, I.A. No.01 of 2019, application for condonation of delay in filing of instant criminal miscellaneous petition is allowed.
4. The applicant having filed necessary papers, the default stands removed, therefore, we have heard Learned State Counsel on admission.
5. The accused allegedly abducted the prosecutrix and thereafter committed forcible sexual intercourse, however, (PW-1) father of the prosecutrix would state in paragraph 8 that the accused and his daughter are already married and are residing together. Prosecutrix has been examined as PW-19. As per her version, she is not married to the accused but she is not otherwise supporting the prosecution by stating that accused has neither abducted nor performed forcible intercourse with her. The fact of marriage between accused and prosecutrix is also supported by (PW-8) Punni Bai (mother of prosecutrix). In paragraph 7 of her deposition, she would state that prosecutrix is presently residing with Amit (accused) as they have already performed Court Marriage. This witness would further state in paragraph 9 of her cross-examination that when her daughter returned from the house of Amit, she informed that she had gone with Amit as per her own desire.

6. In view of the above state of evidence on record, we are satisfied that the present is not a fit case for granting leave to appeal.

7. Accordingly, prayer for leave to appeal is dismissed. The CRMP is disposed of.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge

Ayushi