

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 1362 of 2018**

- State Of Chhattisgarh Through The Incharge Police Station
Kusmi District Balrampur Ramanujganj Chhattisgarh

----- Petitioner**Versus**

- Sursan Ram S/o Tedhu Ram Nagesiya Aged About 27 Years
R/o Village Harri Bhalghutri, Police Station Kusmi District
Balrampur Ramanujganj Chhattisgarh

----- Respondent

For Respondent-State :- Shri K.K. Singh, G.A.

**Hon'ble Shri Justice Prashant Kumar Mishra &
Hon'ble Shri Justice Gautam Chourdiya**

Order On Board**By****Prashant Kumar Mishra, J.****14/10/2019**

1. The trial Court has acquitted the accused of the charges
under Sections 450, 376 of I.P.C.
2. The prosecutrix, a married lady aged about 28 years was
allegedly subjected to forcible sexual intercourse at about 9
P.M. on 28.01.2014 for which the FIR was lodged after 02
days i.e. on 31.01.2014. Complete reading of deposition of

prosecutrix examined as PW-1 and her husband Amir Sai (PW-2) would reveal that the alleged act of sexual intercourse happened when the prosecutrix was sleeping in her own house along with her husband and children. She admits that the accused resides opposite to her house and he frequently visits their house.

3. The prosecutrix belonging to the Scheduled Tribe Community, is habituated to consume liquor. On the date of incident also the entire family had consumed liquor. The manner in which she narrated the incident at paragraph 6 and 9 of her deposition while reading along with paragraph 4 of cross-examination of her husband PW-2 Amir Sai, it appears to be a clear case of consent.
4. Considering the evidence available on record, we are not inclined to grant leave to appeal. Accordingly, the Cr.M.P. deserves to be and is hereby dismissed.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge

Ayushi