

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1716 of 2019**

- State Of Chhattisgarh Through Station House Officer, Police Station Dongargaon, District Rajnandgaon Chhattisgarh.

---- Petitioner

Versus

- Javendra Sahu S/o Neelkanth Sahu Aged About 26 Years
R/o Village Ushribod, Police Station - Lalabagh, District Rajnandgaon Chhattisgarh.

---- Respondent

For State :- Ms. Madhunisha Singh, PL

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

Order On Board**By****Prashant Kumar Mishra, J.****24/07/2019**

1. Heard.
2. On due consideration delay of 155 days in filing the appeal is condoned. Accordingly, I.A. No. 01 of 2019,

application for condonation of delay in filing of appeal is allowed.

3. The trial Court has acquitted the accused of the charges under Sections 363, 366, 376 (2) of I.P.C. and under Section 6 of the Protection of Children from Sexual Offences Act, 2012.
4. The prosecutrix, examined as PW-6 before the trial Court, has turned hostile and has not supported the case of prosecution at every stage of her examination. Prosecutrix admits that she is already married with the accused. Similarly, father of prosecutrix (PW-5) Chhabilal Yadav would also admit that the prosecutrix and accused have already married. Therefore, no case for grant of leave to appeal is made out.
5. In view of the above, the present CRMP, *sans substratum*, is liable to be and is hereby dismissed.
6. It is very surprising that prosecution has preferred this application seeking leave to appeal despite evidence on record that accused and prosecutrix have already married. None of the witnesses examined by the prosecution would support the case. We are

frequently faced with such applications for leave to appeal where the State is preferring frivolous and vexatious application despite there being absolute lack of evidence against the accused. The State is cautioned that if such frivolous applications are filed in future it would be saddled with heavy costs.

7. Let copy of this order be sent to the Director (Prosecution), Government of Chhattisgarh and the Advocate General forthwith.

8. Certified Copy today.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge

Ayushi