

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1723 of 2019**

- State Of Chhattisgarh Through Police Station - Kawardha,
District - Kabirdham Chhattisgarh. ----- **Petitioner**

Versus

- Javed Khan @ Sonu, S/o Kalim Khan Aged About 32 Years
R/o Ward No. 10, Maharana Pratap Chowk, Lohara, District
Kabirdham Chhattisgarh. ----- **Respondent**

For State :- Shri Santosh Bharat, PL

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

Order On Board
By

Prashant Kumar Mishra, J.

24/07/2019

1. Heard.
2. On due consideration delay of 48 days in filing the CRMP is condoned. Accordingly, I.A. No. 01 of 2019, application for condonation of delay in filing of instant CRMP is allowed.
3. The trial Court has acquitted the accused of the charges under Section 376 of I.P.C.

4. The prosecutrix is a married lady aged about 32 years. According to her version of the incident, the accused used to call her over telephone for about 1 ½ years and wanted to marry her, however, she was not ready for marriage but yet she went to the place of occurrence which is a lodge at Kawardha to explain and persuade him to not to insist for marriage. At this place the accused allegedly committed forcible sexual intercourse with the prosecutrix.
5. The prosecutrix has been cross-examined at length. She would admit that she has lodged an FIR against her husband for offence under Section 498A of I.P.C. and under the provisions of the Protection of Women from Domestic Violence Act, 2005. She also admits that because of the present FIR her brother had separated her and her mother from the family.
6. In any case the prosecutrix having gone to the lodge of her own and having not raised any protest during the act of sexual intercourse and there being delay of about 7 days in lodging the FIR, we are not inclined to grant leave to appeal.
7. In view of the above, the present CRMP, *sans substratum*, is liable to be and is hereby dismissed.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge