

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1709 of 2018**

State of Chhattisgarh, Through the District Magistrate, District- Raipur
(C.G.)

---- **Petitioner**

Versus

Durgesh @ Sonu Thakur, S/o Vishnu Thakur, Aged About 27 Years, R/o
Village- Baikunth (Basantpara), P.S. Neora, District- Raipur (C.G.)

---- **Respondent**

For State/ Petitioner : Mr. Vijay Bahadur Singh, P.L.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

20/02/2019

1. Heard on I.A. No. 01/2018, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC 132**, the delay of 456 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 28.02.2017 passed by Special Judge [Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989 (amended 2015)], Raipur (C.G.) in Special Session Trial No. 49/2014, wherein

the said court acquitted the respondent for commission of offence under Sections 376(1) of IPC, 1860 and in alternate Section 3(2)(5) of Schedule Caste and Schedule Tribe (Prevention of Atrocities) Act, 1989 (amended 2015).

5. In the present case, prosecutrix is PW-1 who is major on the date of incident and her age is about 19 years. From her evidence, it is clear that the prosecutrix and the respondent had long relation since 3-4 years. They made physical relation for a long and when the prosecutrix conceived, the respondent took her with him and remained in one place for a week, thereafter, the respondent left the place that is why a report was lodged.
6. From the evidence, it is clear that the prosecutrix did not inform anyone regarding their long physical relation. She conceived and gave birth to a child. After conceiving, she stayed with the respondent and report was lodged only when the respondent left her. From the total evidence, it is clear that if the respondent would have married with the prosecutrix, the report would have not been lodged.
7. Looking to the entire evidence, the trial court opined that physical relation maintained by them with their consent and it is not a case within definition of rape as defined under Section 375 of IPC, 1860.
8. The finding of the trial court is based on relevant material placed on record and the same is not based on irrelevant or extraneous material, therefore, no interference of this Court is

required against judgment passed by the trial court. It is not a case where respondent should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.

9. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge