

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 280 of 2014

- State of Chhattisgarh Through P.S. Janakpur, District Koriya C.G.

---- Applicant

Versus

- Dwarika Prasad S/o – Krishna Chand Panika Aged About 20 Years R/o – Ghatai, P.S. Janakpur, District Koriya C.G.

---- Respondent

For Applicant-State	:- Shri Rajendra Tripathi, P.L.
For Respondent	:- Shri Kanwaljeet Singh Saini, Advocate
On Behalf of	:- Ms Sharmila Singhai, Advocate

Hon'ble Shri Prashant Kumar MishraHon'ble Shri Gautam Chourdiya, JJ.Order on BoardByPrashant Kumar Mishra, J06/08/2019

1. Heard.
2. On due consideration, delay of 71 days in filing the present Cr.M.P. is condoned. Accordingly, I.A. No.1 is allowed.
3. The trial Court has acquitted the accused of the charges under Sections 458 and 307 of IPC.
4. The victim PW-1, Anjoriya, was sleeping in her house with her deaf and dumb husband and 15 years old son PW-3, Sachin.

At about 1:00 am – 2:00 am during the intervening night of 11-12 July, 2011, 3 persons entered her house, touched her breast and thereafter inserted bamboo stick in her private part. She fell unconscious, however, her son did not awake and he saw her mother in such condition only in the morning.

5. Although the medical evidence would support the case of the victim but in her Court statement she has admitted in her cross examination at Para 6 and then again at Para 9 that she is not able to say as to which of the 3 persons who had entered their house had inserted the bamboo stick in her private parts. The present accused was identified through his voice. The Investigating Officer has not conducted any Test Identification Parade in the course of investigation. It is not the case where all the 3 persons entered her house were sent for the trial, therefore, if the victim is not able to identify as to which of the 3 persons had committed the act, the present accused has rightly been acquitted by the trial Court.

6. Accordingly, no case for grant of leave to appeal is made out. The present Cr.M.P. is dismissed.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge

Ankit