

***NAFR**

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 50 of 2015

- The State Of Chhattisgarh, Through District Magistrate, Balrampur, Chhattisgarh

---- Petitioner

Versus

- Dr. Ravikant Pandey, S/o Shri D. P. Pandey, Aged About 50 Years, R/o Village and Post Duwari, PS Gud, Distt. Reewa M.P. At Present Ojha Ji Ka Makan, Jashpur Naka Kusmi, Distt. Balrampur, Chhattisgarh

---- Respondent

For Appellant

Ms. Madhunisha Singh, PL

Hon'ble Justice Shri Prashant Kumar Mishra

Hon'ble Justice Shri Gautam Chourdiya

Order On Board by Prashant Kumar Mishra J.

06/08/2019

1. On due consideration, delay of 67 days in filing the CRMP is condoned. Accordingly, IA No.1 is allowed.
2. The Trial Court has acquitted the accused of the charges under Sections 342 & 376 of IPC and Section 3 (2) (5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
3. At the relevant time, the accused was a doctor posted in a Primary Health Centre, where the prosecutrix was also working. The prosecutrix complained of forcible sexual intercourse on 20.09.2011. However, after one month of the incident, she executed an affidavit stating that she has lodged the FIR because of anger for the reason that the accused promised to marry her but was delaying the marriage

and in the meanwhile was committing sexual intercourse. The prosecutrix being 35 years of age, the Trial Judge has taken note of her admission in paras 8 & 9 of the deposition where she has stated that on the date of incident, she was working in the house of the accused for about 2 hours and during this period, the accused did not proceed to even touch her but subsequently bolted the door from inside and committed sexual intercourse and during this act she did not resist. The incident has otherwise happened in a dense locality where there are other houses in the vicinity. She admits that if she would have shouted at the time of intercourse, it would have been heard by the neighbors.

4. Considering the conduct of the prosecutrix and the manner in which the alleged sexual intercourse has taken place, the view taken by the Trial Judge that the prosecutrix was a consenting party does not appear to be perverse.
5. It is settled law that when two views are possible and the Trial Court has taken one possible view in the matter to acquit the accused, the High Court while hearing an acquittal appeal is not entitled to take the other view merely because the same view is also possible.
6. No case for grant of leave to appeal is made out. Accordingly, the CRMP is dismissed.

Sd/-
Prashant Kumar Mishra
Judge

Sd/-
Gautam Chourdiya
Judge