

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1857 of 2018

State Of Chhattisgarh Through - Police Station, Chhura District Gariyaband
Chhattisgarh

---- **Petitioner**

Versus

Yogesh Kumar S/o Chaituram Dhruw Aged About 36 Years Sakin Patseoni, Thana
Chhura District Gariyaband Chhattisgarh

---- **Respondent**

For State : Mr. Suryakant Mishra, Panel Lawyer

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

14/01/2019

Heard on application for condonation of delay in filing appeal.

Upon due consideration, the application is allowed.

Delay is condoned.

Heard on application for grant of leave to appeal.

Learned counsel for the State would argue that the respondent accused committed rape on the prosecutrix on a false promise that if out of their physical relation, any child is born, he would be taking responsibility. The prosecutrix has deposed in the evidence that when a child was born out of their relationship, the respondent started avoiding his responsibility to maintain the child which led the prosecutrix to lodge report in the Police Station.

Having gone through the evidence of the prosecutrix, we find that the prosecutrix, herself, has clearly stated that after death of her husband, she had developed relationship with the respondent and her statement is that the respondent had assured that he would be taking responsibility of child, if any, born out of their relations. Even if it is assumed that such assurance was given, the view taken by the trial Court that it does not amount to a case of commission of rape without consent, cannot be said to be perverse or contrary to any settled legal position. The prosecutrix was a major and it is not a case of entering into sexual intercourse on false pretext of marriage. Therefore, we do not find present to be a fit case for grant of leave to appeal. The CRMP is accordingly dismissed.

The records of the Court below be remitted back forthwith.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge