

HIGH COURT OF CHHATTISGARH, BILASPUR

- State of Chhattisgarh Through Station House Officer, Police Station Pussore District Raigarh Chhattisgarh.

Versus

- Kripasindhu Sao S/o Lal Mohan Sao Aged About 25 Years
R/o Sighpuri, P.S. Pussore District Raigarh Chhattisgarh.

---- Respondent

For Applicant-State :- Shri K.K. Singh, G.A.

Hon'ble Shri Prashant Kumar Mishra

Hon'ble Shri Gautam Chourdiya, JJ.

Order on Board

By

Prashant Kumar Mishra, J

28/08/2019

1. Heard.
2. On due consideration, delay of 197 days in filing the present Cr.M.P. is condoned. Accordingly, I.A. No.1 stands allowed.
3. The trial Court has acquitted the accused of the charges under Section 376 (2)(b) of IPC.
4. Prosecutrix, examined as PW-3, would state that she was in

love with the accused and had eloped with him out of her own free will. She also states that the elderly person of the caste did not accept their relation and out casted them because they belonged to the same *Gotra*. There is evidence to the effect that both of them performed marriage by executing affidavit but according to the prosecutrix the applicant is not performing marriage ceremoniously. Since the prosecutrix is aged about 23 years and she eloped out of her own free will, learned trial Court has rightly found that offence of commission of rape is not made out. It is also to be seen that the initial act of sexual intercourse was not on account of promise to marry but was a result of love affair between the accused and the prosecutrix.

5. Considering the entire facts situation of the case and the material available on record the present is not a fit case for grant of leave to appeal.
6. Accordingly, Cr.M.P. deserves to be and is hereby dismissed.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Gautam Chourdiya)
Judge