

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2072 of 2019

- Applicant

- Arun Patel S/o Kanhaiya Lal Aged About 28 Years R/o Village Basantpur, Police Station Sakti, District Janjgir Champa Chhattisgarh.

---- Respondent

For Applicant-State :- Shri Avinash Choubey, PL

Hon'ble Shri Prashant Kumar Mishra

Hon'ble Shri Gautam Chourdiya, JJ.

Order on Board

By

Prashant Kumar Mishra, J

16/09/2019

1. Heard.
2. On due consideration, delay of 176 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 450, 506 Part II, 354-क and 377 of IPC.
4. Prosecutrix, examined as PW-5, is deaf and dumb lady,

aged about 23 years. As per the prosecution case the prosecutrix was alone in her house at the time of incident. Her mother had gone for her own treatment to Janjgir, whereas her father, examined as PW-2, Mukharam Patel, had gone towards village Basti. When father returned to home he witnessed that accused is running away from his house. On inquiry from the prosecutrix she disclosed to her father that the accused outraged her modesty by touching her breast and made aggravated sexual assault by inserting his penis into her mouth.

5. When examined in Court with the assistance of interpreter the prosecutrix has made inconsistent statement about the incident and eventually concluded her deposition in Para 6 of the cross examination that her maternal uncle is a Police Constable and he was instrumental in lodging the FIR by obtaining signature of her father on complaint. She admits that she had informed to Police that she is not aware about the incident on which she was sent back. She was interrogated by the Police on number of occasions and on each date she informed that nothing has happened with her. Her father, PW-2, Mukharam Patel, is also inconsistent in making statement against the accused. In Para 11 he says that his daughter has not informed anything to him about the incident.

6. Considering the contradiction and omission, the Trial Court has rightly given benefit of doubt to the accused.
7. The present is not a fit case for grant of leave to appeal, therefore, the Cr.M.P. deserves to be and is hereby dismissed.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge

Ankit