

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2154 of 2018

- State Of Chhattisgarh, Through Police Station- Dongargarh, District : Rajnandgaon, Chhattisgarh

---- Petitioner

Versus

- Lokesh Kumar Sahu, S/o Shri Dushyant Sahu, Aged About 27 Years, R/o Village-Anjora, Ward No. 17, Police Station- Somni, Tahsil And District : Rajnandgaon, Chhattisgarh

---- Respondent

For Petitioner/State : Shri Subhash Yadav, Dy.G.A.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board by Hon'ble Shri Justice Manindra Mohan Shrivastava

19.03.2019

1. Heard on application for condonation of delay in filing appeal.
2. Upon due consideration, the application is allowed.
3. Delay is condoned.
4. Also, heard on application for grant of leave to appeal filed by the State.
5. Learned counsel for the State, referring to the evidence of the prosecutrix PW-4, would argue that the prosecutrix has stated that the appellant had taken her to hotel and had entered into sexual intercourse and the manner she states, clearly show that there were no free consent of the prosecutrix. The finding recorded by the learned trial Court that the prosecutrix was not subjected to rape against her consent is contrary to the evidence on record and, therefore, there is patent illegality and perversity.
6. We have gone through the statement of the prosecutrix who appears to be aged about 26 years. The prosecutrix has been subjected to detailed cross-examination and the statement made in the examination-in-chief has been elicited as improvement on her diary statement, and her evidence further reveals that she had gone along with the respondent/accused and stayed with him but did not make complaint to anybody. She has further deposed that she would not have lodged any report, if her in-laws had not reached to the house of the

accused and taken her to the police station for getting the report lodged. This is very clear from her statement from para 11 and para 15 of her deposition.

7. Taking into consideration that the prosecutrix is a major, stayed with the respondent/accused and had maintained physical relation without raising objections or lodging any report anywhere, and it is only when her in-laws came and took her away, a report has been lodged which has been stated by the prosecutrix herself, the finding of the learned trial Court is that present is a case of consent between the prosecutrix and the respondent/accused and can neither be said to be perverse nor contrary to the evidence, and the view which has been taken by the learned Trial Court is much more probable, than, the prosecution case of it being a case of sexual intercourse of the prosecutrix without her consent and against her wishes. Therefore, the finding of the learned trial court does not suffer from any patent illegality, perversity so as to warrant interference by this Court, keeping in view the limited scope of interference against the judgment of acquittal. We, accordingly, do not consider present to be a fit case to grant leave to appeal.

8. Accordingly, CRMP is dismissed at the admission stage itself.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge