

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2136 of 2018

- Applicant

- Santosh Sonkar S/o Ganga Ram Sonkar Aged About 30 Years R/o Village Gunderdehi, Police Station Gunderdehi, District Balod 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

17/09/2019

1. Heard.
2. On due consideration, delay of 435 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 Section 376 of IPC.
4. The prosecutrix is a married lady, aged about 28 years, the

incident happened at about 1:30 pm on 02.05.2015 when the prosecutrix had gone to attend nature's call behind the bushes near her agricultural field. At that time the accused was hiding himself in the bushes and seeing the prosecutrix, he caught hold of her, laid her down on the ground and committed forcible sexual intercourse. The medical report is not positive for rape.

5. As per prosecution case husband of the prosecutrix reached the place of occurrence after hearing the alarm raised by the prosecutrix, however, her husband, Gopinath Sonkar (PW-2), would state that after going to the agricultural field together he went to meet the borewell mechanic for requesting him to repair the borwell. When he returned after about 2 hours he did not find his wife on their agricultural field, therefore, he started searching for his wife and called her on which she started raising alarm. At this very time he saw the accused fleeing away from the place of occurrence. This is in contradiction to his case diary statement and the statement of the prosecutrix that he reached the place of occurrence after the alarm raised by the prosecutrix. The trial Court has, therefore, concluded that the prosecutrix was a consenting party.
6. Having examined the evidence we have found that the view taken by the trial Court on the basis of evidence available on

record is one possible view in the matter. Therefore, considering settled law that when two views are possible and the trial Court has taken one such possible view to acquit the accused, the High Court shall not interfere with the judgment of trial Court merely because another view is possible, we are not inclined to grant leave to appeal against the acquittal.

7. Accordingly, the present Cr.M.P. deserves to be and is hereby dismissed.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge

Ankit