

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2214 of 2018

State Of Chhattisgarh, Through The Police Station Pandatarai, District Kabirdham
Chhattisgarh ---- **Petitioner**

Versus

Ramashray S/o Kanchu Ram Nirmalkar, Aged About 38 Years, R/o Village Kumhi
Police Station Pandatarai, District Kabirdham Chhattisgarh ---- **Respondent**

For Petitioner/State : Mr. Anand Verma, Dy. G.A.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

01/02/2019

Heard on application for condonation of delay in filing appeal.

Upon due consideration, the application is allowed.

Delay is condoned.

Also heard on application for grant of leave to appeal.

1. Learned State counsel would argue that the learned Trial Court committed illegality and perversity in acquitting the accused by drawing an inference of the consensual sexual intercourse between the parties, despite clear evidence given by the prosecutrix before the Court that she was subjected to rape.

2. We have gone through the impugned judgment and the testimony of witnesses, particularly that of the prosecutrix. Learned Trial Court, in order to come to the conclusion that present is a case of consensual sexual intercourse between the prosecutrix and the accused, has taken into consideration the conduct of the prosecutrix and the evidence of the prosecution witnesses, particularly that of Suresh (PW1), Khemas Kumar (PW2) and Uttara Kumar (PW5), who have deposed that they all kept sitting out of the house of the prosecutrix and despite several calls given, the door was not being opened and long after, the door was opened, whereafter, the prosecutrix and the accused surfaced. Moreover, the learned Trial Court has also taken into consideration what has been stated by the prosecutrix in her cross-examination that where it has been elicited that she was

compelled to state before the Court that rape was committed because she was threatened by her relations and if she does not make allegation of rape, she would be hurt. On such evidence, learned Trial Court has drawn conclusion of it being a case of consensual affair between the prosecutrix and accused. Therefore, in these circumstances, learned Trial Court committed no illegality or perversity in granting the respondent benefit of doubt and acquitting him. No case is made out for grant of leave to appeal.

3. The present CRMP is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge

Rekha