

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.2340 of 2018**

- State Of Chhattisgarh Through Station House Officer ,police Station Ajk Janjgir District Janjgir Champa Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- **Petitioner****Versus**

- Rajendra Kumar Sharma S/o Late Kaliram Sharma , Aged About 52 Years R/o Village Dodki Police Station Masturi District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- **Respondent**

 For the Petitioner/State : Shri Ravish Verma, Govt. Advocate
 For the respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma
Order On Board

08.01.2019.

1. Heard on IA No.01/18 for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and the law laid down by Hon'ble Supreme Court in the matter of **State of Haryana Vs. Chandra Mani & Ors.** reported in **1996 3 SCC 132**, the delay of 57 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.
4. This petition has been preferred against judgment of acquittal dated 18.5.2018 passed by Special Sessions Judge under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989/Amended Act, 2015, Distt. Janjgir Champa, Chattisgarh in Special Session Case No.31/2017 wherein the said

Court acquitted the respondent for the charges under Sections 354 and 506 of the Indian Penal Code, 1860 and under Section 3(2)(va) of the Act, 1989.

5. In the present case prosecutrix is PW-1. The appellant has charge sheeted for demanding sexual favour of the prosecutrix and for words, gestures or act intended to insult her modesty who is a member of the Scheduled Caste.

6. As per the finding of the trial Court, the prosecutrix has made her statement unreliable. The prosecutrix admitted before the trial Court that she did not narrate the incident to one Shashi Manhar where she has stayed after the incident. Again she did not narrate the incident to her husband, mother and any independent person of the locality. The prosecutrix was posted as RHO in the Health Centre Kondabhatt while the respondent was posted as NMA of the same department and both were working for 10 years and known to each other. From the record it appears that the prosecutrix did not narrate the incident to any one and after evaluating the evidence the trial Court opined that her version is not natural. The trial Court further opined that when the version of the prosecutrix is not dependable some independent corroboration is required but no corroborative piece of evidence is adduced by the prosecution. Again the act is not committed on the basis of the caste but based on their work place because both were working in the Health Department.

7. It is settled law that when two views are possible, the view which is favourable to the accused should be accepted. Looking

to the entire evidence recorded by the trial Court, this court has no reason to record a contrary finding. It is not a case where the respondent should be called for full consideration of the petition.

8. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

**Sd/-
(Ram Prasanna Sharma)
JUDGE**