

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 2328 of 2019

1. State Of Chhattisgarh Through Station House Officer, Police Station Gaurella District- Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. Jaiprakash @ Peeku S/o Shri Jamuna Prasad Choudhary Aged About 24 Years R/o Champa, Ward No. 04 Police Station Sohagpur, District- Shahdol, Madhya Pradesh

---- Respondent

For Petitioner/StateMs Madhu Nisha Singh, Panel Lawyer

Hon'ble Shri Prashant Kumar Mishra, J.Hon'ble Shri Gautam Chourdiya, J.Order on BoardByPrashant Kumar Mishra, J.5-11-2019I.A.No.1

1. This is an application for condonation of delay in filing the application.
2. For the reasons mentioned in the application, the delay of 156 days in filing the application is condoned.
3. Accordingly, I.A.No.1 stands disposed of.
4. Trial Court has acquitted the accused from the charge under Section 376 of the Indian Penal Code.

5. The prosecutrix, aged about 23 years, was subjected to forcible sexual intercourse in the intervening night of 28th/29th November, 2016 for which the First Information Report (FIR) was lodged after about 1 year 4 months on 9-3-2018. The accused otherwise happens to be the son of Aunt (बुआ) of the prosecutrix. After the incident and before lodging the FIR two agreements were executed between the accused and the prosecutrix on 5-12-2017 vide Articles A/1 & A/2 showing their intention to marry each other as they are in love. There is no whisper in this document that before 5-12-2017 the accused committed forcible sexual intercourse with the prosecutrix. Even this agreement was executed after more than a year of the incident. Albeit the prosecutrix alleges videography of the incident by a mobile phone, but the same has not been recovered during investigation.
6. Considering the enormous delay in lodging the FIR and the prosecutrix being more than 18 years of age, the findings recorded by the trial Court while acquitting the accused does not appear to be perverse.
7. From the entire facts situation of the case and looking to the nature and quality of evidence available on record, it is manifest that present is not a fit case for grant of leave to appeal.
8. In the result, the application (CRMP), *sans* merit, is liable to be and is hereby dismissed.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge

Gowri