

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2377 of 2019**

- State Of Chhattisgarh Through Station House Officer, Police Station - Kusumi, District - Balrampur- Ramanujanj Chhattisgarh. ----- **Petitioner**

Versus

- Uday Kumar Bunkar S/o Ganesh Bunkar, Aged About 19 Years R/o Village Gopatu, Police Station Samripath, Present Address Bajarpara, Kusumi, District - Balrampur - Ramanujanj Chhattisgarh ----- **Respondent**

For Applicant-State :- Shri Avinash Choubey, PL

**Hon'ble Shri Justice Prashant Kumar Mishra &
Hon'ble Shri Justice Gautam Chourdiya**

Order On Board**By****Prashant Kumar Mishra, J.****08/11/2019**

1. On due consideration delay of 135 days in filing of the Cr.M.P. is condoned. Accordingly, I.A. No.01 of 2019 which is an application for condonation of delay occurred in filing of the instant Cr.M.P. is allowed.
2. The trial Court has acquitted the accused of the charges under Sections 363, 366, 376 of the Indian Penal Code.
3. The prosecutrix eloped with the accused on 12.11.2012 and

thereafter they stayed together for about a month at different places including the house of relative of the accused. In her examination-in-chief, the prosecutrix would not make any allegation of commission of rape. Such allegation is made by way of admission when she was suggested by the public prosecutor that she was subjected to sexual intercourse by the accused.

4. Mother of the prosecutrix, examined as PW-2, has stated that the prosecutrix never informed her about the commission of rape by the accused. Although her Date of Birth is stated to be 15.10.1997 but the mark-sheet and Dakhil Khareej Register has not been proved by examining the author of the documents or any person who was in possession of the original record of the concerned school. At the relevant time, age of consent was 16 years. Thus, in the absence of proof of age that she was less than 16 years of age at the date of incident and for the fact that the prosecutrix appears to be a consenting party, the trial Court's judgment acquitting the accused of the charges does not seem to be perverse.
5. No case for grant of leave to appeal is made out. Accordingly, the Cr.M.P. deserves to be and is hereby dismissed.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge