

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2379 of 2018**

- State Of Chhattisgarh, Through P.S. Sakti, Janjgir, District : Janjgir-Champa, Chhattisgarh

---- Petitioner**Versus**

1. Bablu @ Laxman Chouhan, S/o Shri Chamaklal Chouhan, Aged About 22 Years,
 2. Chandu @ Chandrabhushan Patel, S/o Late Shri Arjun Lal Patel, Aged About 28 Years,
- Both R/o Mohandikala, P.S. Sakti, District : Janjgir-Champa, Chhattisgarh

---- Respondents

For Petitioner/State : Shri Anand Verma, Dy. G.A.
For Respondents : None.

**Hon'ble Shri Justice Manindra Mohan Shrivastava &
Hon'ble Smt Justice Rajani Dubey**

Judgment on Board**10/01/2019**

1. Heard on I.A.No.01/2018, application seeking condonation of delay in filing the petition.
2. Upon due consideration of the cause shown in the application, we are inclined to condone the delay.
3. I.A.No.01/2018 is allowed. Delay in filing the petition is condoned.
4. Also, heard on admission.
5. The present petition has been filed by the State seeking leave to appeal under Section 378 (3) of the code of Criminal Procedure, 1973 assailing the judgment and

order dated 15.06.2018 passed by Special Judge (Atrocity) Act District – Janjgir - Champa (C.G.), in Special Sessions Case No.12/2017 acquitting the accused/respondent of the charge under Sections 364, 376(D) and 307 of the IPC and Section 3(2)(5) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

6. Learned State counsel submits that the learned Trial Court has erred in acquitting the accused of the charge framed against him, even the prosecutrix evidence recorded under Section 164 of Cr.P.C. clearly states regarding commission of rape on her by the respondent/accused and, therefore, the evidence of the prosecutrix recorded during trial ought to be appreciated in the said background.

We have carefully gone through the statements of the Prosecutrix (PW-1) in which she has refused to identify the accused during Trial. Not only this, she has also stated that she had sustained injury because of fall. She has emphatically stated that the appellant has not done anything with her much less rape on her. In this background of the case, the learned Trial Court has taken the view that the prosecution has failed to prove the involvement of the appellant beyond reasonable doubt that it is the appellant who has committed rape of the prosecutrix. We are of the considered view that the Trial Court's finding is a possible view based on evidence

of the case.

7. Taking into consideration the judgment of acquittal based on the scrutiny of the statement of the prosecutrix, we are not inclined to grant any leave to appeal.
8. Accordingly, the CRMP preferred by the State/applicant is bereft of any substance and, therefore, the same is liable to be and is hereby dismissed at the admission stage itself leading to refusal of leave to appeal as sought for by the State.

Sd/-
(Manindra Mohan Shrivastava)
JUDGE

Sd/-
(Rajani Dubey)
JUDGE