

HIGH COURT OF CHHATTISGARH, BILASPUR

- State of Chhattisgarh Through Police Station Nawagarh, District - Janjgir - Champa Chhattisgarh.

Versus

- Respondent

For Applicant-State :- Shri K.K. Singh, GA

Hon'ble Shri Prashant Kumar Mishra

Hon'ble Shri Gautam Chourdiya, JJ.

Order on Board

By

Prashant Kumar Mishra, J

18/11/2019

1. Heard.
2. On due consideration, delay of 64 days in filing the present CRMP is condoned. Accordingly, I.A No.1 is allowed.
3. The trial Court has acquitted the accused of the charges under Section 450, 506B and 376 of the IPC.

4. The prosecutrix, aged about 40 years, is a married woman having four children. She was subjected to forcible sexual intercourse on 23.11.2016 for which the FIR was lodged on 22.12.2016 i.e. after one month of the incident. At the time of commission of forcible sexual intercourse the prosecutrix was sleeping on a hard wooden bed (*takhat*) with her two children and on the adjoining cot her husband was sleeping with the other two children. It is not a case of attempt to commit rape but the entire act of forcible sexual intercourse happened when the husband of the prosecutrix was sleeping adjoining to her. Therefore, considering the delay in lodging the FIR, the trial Court has rightly acquitted the accused of the charges.
5. No case for grant of leave to appeal against the acquittal is made out. Accordingly, the present CRMP deserves to be and is hereby dismissed.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge

Ankit