

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2499 of 2019

- Applicant

---- Respondent

For Applicant-State :- Shri Avinash Choubey, PL

Hon'ble Shri Prashant Kumar Mishra

Hon'ble Shri Gautam Chourdiya, JJ.

Order on Board

By

Prashant Kumar Mishra, J

20/11/2019

1. Heard.
2. On due consideration, delay of 143 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 Sections 450, 376(2) and 506 Part-II of the IPC.

4. The accused allegedly committed forcible sexual intercourse with the prosecutrix, a married woman, aged about 32 years, on 27.04.2017 and 15 days prior to the said date as well. Her husband, PW-7 Vishnu Ram Sahu, admits that the prosecutrix did not inform about the first incident nor informed about the second incident immediately. In his case diary statement, Exhibit D/3, he informed the Police that his wife informed him that her relation with the accused is continuing from December, 2016 onwards. Although, he denies any such statement made to the Police but the fact remains that the prosecutrix did not inform about her relation with the accused. She was found positive in pregnancy test vide Exhibit P/20. In another document also numbered as Exhibit D/3, which is a Government record relating to information about pregnant women, name of the accused is mentioned as husband of the prosecutrix. This might have happened because the prosecutrix informed the medical officer that the accused is responsible for the pregnancy but the fact remains that she later on refused to undergo DNA test. PW-11, Narbadiya Bai, speaks about alarm raised by the prosecutrix at the time of commission of offence, however, the prosecutrix herself is not making any such statement about raising alarm.

5. Considering the evidence on record in its totality the trial

Court's finding that her relation with the accused was consensual does not appear to be perverse.

6. 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