

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 81 of 2019**

- State Of Chhattisgarh Through Police Station AJK Ambikapur District Surguja Chhattisgarh

---- Petitioner

Versus

- Goutam Keshari S/o Nandu Gupta @ Nandkishor Aged About 25 Years R/o Village Namnakala, Moulvi Bandh Police Station Ambikapur, District Surguja Chhattisgarh

---- Respondent

For Petitioner : Shri Subhash Yadav, Dy.G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Rajani Dubey****Order On Board****18/02/2019**

Heard on I.A.No.1, application for condonation of delay in filing appeal.

Upon due consideration, the application is allowed.

Delay is condoned.

Also heard on application for grant of leave to appeal.

Learned State counsel would argue that the acquittal of the respondent by the Trial Court suffers from patent illegality because even though the prosecutrix has admitted her relations with the respondent, she has deposed that after having maintained relation for sometime, the respondent started asking for time to go for marriage which proves that it was a case where consent was obtained by deceit and it was not a free consent.

We have gone through the evidence of the prosecutrix (PW 1). She has stated that while undergoing training, she had come in contact with the respondent and developed an affair, even though she had married at that time and she had sexual

intercourse with the respondent, she had also started living with the respondent. Her evidence that when the respondent said that he would need sometime to marry, she started apprehending that the respondent may not marry her and therefore, the prosecutrix lodged report against the respondent.

On the face of the aforesaid evidence, learned Trial Court has recorded a finding that a case of commission of offence under Section 376 IPC would not be made out. The prosecutrix is a major.

The finding recorded by the learned Trial Court does not suffer from any patent illegality or perversity or in ignorance of material evidence on record, much less ignorance of any settled legal position with regard to ingredients of commission of offence under Section 376 IPC. Therefore, no case is made out for grant of leave to appeal. The present CrMP is accordingly dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge