

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 56 of 2019**

- State Of Chhattisgarh Through Police Station Bankimongra District Korba Chhattisgarh

---- Petitioner

Versus

- Dayalu Das @ Buteen S/o Shri Sahdev Das Aged About 18 Years R/o Birkona, Police Station Bankimongra District Korba 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****14/02/2019**

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

Upon due consideration, the application is allowed.

Also heard on application for grant of leave to appeal.

Learned State counsel would argue that the learned Trial Court had granted acquittal to the respondent against allegation of commission of offence of rape ignoring clinching evidence of the prosecutrix herself that the very first incident was an act of commission of rape because at that time, the prosecutrix has not given her consent for sexual intercourse.

2. We have gone through the impugned judgment of acquittal and evidence on record particularly that of the prosecutrix.

3. Taking into consideration that the prosecutrix is major and she never reported the matter to the police or to anyone with regard to the first incident of sexual intercourse between her and the respondent/accused and thereafter, developed relations, had an affair and also became pregnant and the matter was reported only thereafter, has drawn a conclusion of it being a case of consent.

4. Looking to the evidence of the prosecutrix, delay in lodging report and that the prosecutrix herself has admitted that later on, she had developed an affair with the respondent, finding of the learned Trial Court does not appear to be suffering from any patent illegality or perversity so as to call for interference against judgment of acquittal particularly, when the prosecutrix is a major. No case is made out for grant of leave to appeal. The application is accordingly rejected. The present CrMP is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge