

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 126 of 2019

State Of Chhattisgarh Through The Station House Officer, Police Station Kurud,
District Dhamtari Chhattisgarh

---- Petitioner

Versus

Prem Narayan Nirmalkar S/o Shri Radheshyam Nirmalkar Aged About 28 Years
R/o Village Bhathapara Chati, Police Station Kurud District Dhamtari Chhattisgarh

---Respondent

For Appellant/State : Mr. K.K. Singh, Govt. Advocate

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

20/02/2019

1. Heard on IA No.1, application for condonation of delay in filing the appeal.
2. Upon due consideration of the grounds urged in the application, we are inclined to allow the same. Accordingly, the application is allowed. Delay in filing the appeal is condoned.
3. Heard on prayer for grant of leave to appeal.
4. Learned counsel for the State/appellant submits that even though the prosecutrix (PW9) has stated that she was having longstanding affair of about five years with the respondent-accused and sexual relations were maintained on account of assurance given to the prosecutrix that later on the respondent/accused will marry her, but then the accused expressed his inability saying that he is unable to overcome pressure of his family. It is submitted that the evidence proved that the consent was obtained by deceit on a false pretext and was not free consent.
5. We have gone through the impugned judgment of acquittal and also the evidence on record particularly the evidence of prosecutrix (PW9) who has admitted longstanding relationship of five years with the respondent-accused and that she

had later on become pregnant and also got it aborted. According to her evidence, the respondent was willing to marry her but expressed inability because of mounting pressure of his parents due to which marriage could not be solemnized.

6. In view of the aforesaid evidence of the prosecutrix, the view taken by the learned trial Court that the prosecutrix being major was a consenting party and it could not be said to be a case of obtaining consent on false pretext by way of deceit only to secure company and sexual pleasure, is quite possible. Therefore, we are not inclined to interfere with the judgment of acquittal in view of the limited scope of interference against the judgment of acquittal.
7. Accordingly, no case for grant of leave is made out. The petition is therefore dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Vimla Singh Kapoor)
Judge