

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 206 of 2019

State Of Chhattisgarh, Through Police Station- Gharghoda, District- Raigarh,
Chhattisgarh

---- **Petitioner**

Versus

Satish Rathia, S/o Shri Laxmi Rathia, Aged About 28 Years, R/o Chhedoriya, Police
Station And Tahsil- Gharghoda, District- Raigarh, Chhattisgarh

---- **Respondent**

For State/Petitioner : Mr. K.K. Singh, Government Advocate

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

01/04/2019

Heard on (I.A. No.1) application for condonation of delay in filing application for grant of leave to appeal.

Upon due consideration, delay in filing application for grant of leave to appeal is condoned.

The application (I.A. No.1) is allowed.

Also heard on application for grant of leave to appeal.

1. Learned State counsel would submit that even though the prosecutrix has stated that the respondent committed rape on her by committing sexual intercourse without her consent, the learned Trial Court has given benefit of doubt on considerations which have not relevant, swayed by the fact that in the night, the prosecutrix had gone along with the respondent.

2. We have gone through the impugned judgment and also the evidence led by the prosecution, particularly, that of the prosecutrix. The prosecutrix's evidence as it comes on record is that in the night, the respondent came to her house and thereafter in the midnight, she went away with the respondent accused. The prosecutrix being major and she quietly leaving the house in the midnight along with the respondent without making hue and cry and staying with him in another house for one day and thereafter, FIR having

been lodged after about 5 days, has been taken into consideration by learned trial Court to arrive at the conclusion that present appears to be a case of consent and not a case of sexual intercourse without the consent of the prosecutrix.

3. The view taken by learned Trial Court on the basis of proved facts and circumstances of the case, is a possible view particularly, taking into consideration the age of the prosecutrix and that she had gone along with the respondent quietly in the midnight from her house without informing anybody and thereafter, stayed with the respondent accused for one day. Therefore, we are not inclined to interfere with the impugned judgment of acquittal keeping in view the limited scope of interference against the impugned judgment of acquittal.

4. Therefore, the present CRMP is dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge