

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 252 of 2020**

- State Of Chhattisgarh Through P.S. Chuikhadan, District - Rajnandgaon Chhattisgarh.

---- Applicant

Versus

- Uttam Kumar Janghel S/o Babulal Janghel Aged About 28 Years R/o Village Darbar Khapari, P.S.- Chuikhadan, District - Rajnandgaon Chhattisgarh.

---- Respondent

For Applicant-State :- Shri Avinash Choubey, PL

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Gautam Chourdiya
Order On Board

By**Prashant Kumar Mishra, J.****29/01/2020**

1. On due consideration delay of 12 days occurred in filing of the Cr.M.P. is condoned. Accordingly, I.A. No.01, for condonation of delay is allowed.
2. The trial Court has acquitted the accused of the charges under Sections 457, 376(2)(जे) and under Sections 3, 4 of the Protection of the Children from Sexual Offences Act,

2012.

3. Although, the prosecutrix is less than 18 years of age but in her deposition she would admit that at the time of incident her father was sleeping in the adjoining veranda and the door was opened. The incident occurred at 9 P.M. but the FIR was lodged on the next evening. She admits that the accused is leading movement for prohibition by forming a group of youngsters and that on his report the Sarpanch was arrested. She also admits that the accused had also lodged complaint against her parents that they are involved in illicit browning of liquor. The medical opinion being negative for commission of rape, the same assumed significance. Considering the delay in FIR and the sour relation between the family of the accused and the prosecutrix, the view taken by the trial Judge appears to be one probable view in the matter.
4. In view of the settled legal position that when two views are possible in the case and the trial Court has taken one of the views, the judgment of acquittal should not be converted into a judgment of conviction. (See : **State of M.P. Vs. Bachhudas alias Balram** and others, (2007) 9 SCC 135), we are of the opinion that the present is not a fit case for grant of leave to appeal, because, the view taken by the trial Judge emanates from the state of evidence on record and

the same does not appear to be perverse.

5. For the foregoing we do not find any ground to entertain this application for leave to appeal.

6. Accordingly, the Cr.M.P. deserves to be and is hereby dismissed.

SD/-
(**Prashant Kumar Mishra**)
Judge

SD/-
(**Gautam Chourdiya**)
Judge

Ayushi