

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 418 of 2020**

- State of Chhattisgarh, Through Police Station A. J. K., District Rajnandgaon (C.G.).

---- appellant

Versus

- Haider Ali, S/o Kamar Ali, aged about 35 years, resident of Kashmiri Para (Khuntapara), Ward No. 1 Dongargarh, District- Rajnandgaon (C.G.).

---- Respondent

For Appellant/State : Shri R. S. Bhaghel, Dy. G. A.

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Gautam Chourdiya
Judgment on Board by Justice Prashant Kumar Mishra

19/02/2020

Heard on application for grant of leave to appeal under Section 378(3) of Code of Criminal Procedure, 1973.

2. By the Judgment dated 23.09.2019, passed by Special Judge, Scheduled Castes and Scheduled Tribes (Prevention of Atrocity) Act, Rajnandgaon (C.G.), in Special Case No. 30/2017 the respondent/accused has been acquitted of the Charge under Sections 376 (2), 506 (2), 342 of IPC & Sections 3(2)(v) & 3(1)(x) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.
3. According to the prosecution case, the prosecutrix aged about 32 years is a teacher working as Shikshakarmi Grade- III at Primary School near Dongargarh. Her husband is also a teacher posted at a different place.

She lodged the FIR alleging that the accused committed forcible intercourse with her regularly from 8.12.2016 to 14.07.2017. He (accused) threatened and criminally intimidated her saying that if her husband reaches back to her house he would be murdered. When examined in Court she admits that accused is a bus driver and she used to travel in the same bus driven by the accused and that she had prior acquaintance with the accused during her bus journey. She admits that she and her husband both have mobile-phone but she did not talk to her husband for a period of six months nor her husband came to reside with her during the period when the incident took place. When suggested that she has gifted a motor-cycle to the accused she denied the fact but admits that the prepaid cheque ensuring payment of loan to the Finance Company was signed by her with further explanation that the accused has forcibly taken this cheque from her.

4. Complete reading of her deposition coupled with delay in lodging the FIR proves that the view taken by the trial Court holding that the prosecutrix was a consenting party is one probable view, therefore, there is no scope for admitting this leave to appeal merely because another view is probable.
5. Prayer for grant of leave to appeal in this CRMP is not made out. The Cr.M.P. deserves to be and is hereby dismissed.

Sd/-
Prashant Kumar Mishra
Judge

Sd/-
Gautam Chourdiya
Judge