

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No.502 of 2020

- State Of Chhattisgarh Through its Police Station Lemru, District Korba, Chhattisgarh

---- Applicant

Versus

- Jainath Baruwa @ Jaya, S/o Khairwar Baruwa, Aged About 25 Years, Resident of Village Algi Dongri, Police Station Lemru, District Korba, Chhattisgarh

---- Respondent

For Applicant Shri R. S. Baghel, Dy. AG

Hon'ble Justice Shri Prashant Kumar Mishra

Hon'ble Justice Shri Gautam Chourdiya

Order On Board By Shri Prashant Kumar Mishra J.

26/02/2020

1. On due consideration, delay of 252 days in filing the CRMP is condoned. Accordingly, IA No.1/2020 is allowed.
2. The Trial Court has acquitted the accused of the charges under Sections 376 of IPC.
3. The prosecutrix is a married lady, aged about 35 years. The accused is also a married man, aged about 25 years. Both reside in the same locality. The alleged incident happened at about 9-10 am on 26.07.2017 for which FIR was lodged after 10 days on 06.08.2017. In her 164 CrPC statement, the prosecutrix deposed that when the accused was performing the sexual intercourse, his wife reached at the place of occurrence and saw them, on which

the accused ran away. This important fact is missing in the FIR and in her case diary statement. In her deposition, she would slightly improve to say that when the accused finished committing sexual intercourse and she was trying to run away from the place, the accused's wife saw her and it was she who informed her (prosecutrix) sister and brother-in-law. About delay in lodging the FIR, she states that the matter was taken to the Caste Panchayat, but the accused did not turn up, therefore, the report was lodged after 10 days.

4. Considering the evidence on record, it appears that the Trial Court's finding that the prosecution has failed to prove the offence under Section 376 of IPC is a probable view in the matter.
5. No case for grant of leave to appeal is made out.
6. Accordingly, the CRMP is dismissed.

Sd/-
Prashant Kumar Mishra
Judge

Sd/-
Gautam Chourdiya
Judge