

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 487 of 2020

- State Of Chhattisgarh, through- Its Station House Officer, Police Station Champa, District Janjgir-Champa, Chhattisgarh.

---- Petitioner.

Versus

- Ishwar Yadav, S/o Late Rakhilal, aged about 28 years, Resident of Village – Railway Station, Jawahar Para Champa, Police Station Champa, District Janjgir-Champa Chhattisgarh.

Presently Resident of Village Devlapath, Kurdi, Police Station Urga, District Korba Chhattisgarh.

----Respondent.

For Petitioner	:	Mr. Rajendra Tripathi, PL
For Respondent	:	None.

Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Vimla Singh Kapoor,

Order on Board by Justice Manindra Mohan Shrivastava J.

24.02.2020

Heard on application for grant of leave to appeal.

2. Learned counsel for the State would argue that even though the prosecutrix (PW-9) has clearly stated that the respondent/accused has come to the house and in state of intoxication, he committed rape on her, the learned trial Court has disbelieved the testimony only on the ground that there were delay of about a month in lodging report whereas the prosecutrix has clearly explained delay of one month by stating that because of threat given by the respondent/accused, this fact could not be disclosed. He would submit that the learned trial Court has not properly appreciated the evidence of other prosecution witnesses namely PW-1, PW-2, PW-3 and PW-5 who all corroborated the

statement of the prosecutrix that the accused had come to her house.

3. Having meticulously examined the impugned judgment of acquittal and the evidence of the prosecution witnesses particularly that of the prosecutrix, we find that the learned trial Court has doubted the case of the prosecution mainly on the ground that the FIR is delayed by about a month. Though prosecutrix states that because of threat of the accused she could not disclosed the incident immediately, the evidence of PW-1, PW-2 and PW-3 is to the effect that they had come to know about the incident immediately thereafter. Thus the explanation offered by the prosecutrix appears to be false. There is evidence led by the prosecution witness that the accused and the prosecutrix were known to each other and the accused was frequently visiting the house of the prosecutrix and prosecutrix' husband (PW-1) stated that the accused frequently come to his house and commits sexual intercourse.

4. Upon appreciation of the aforesaid evidence on record the learned trial Court has taken a view that present appears to be case of consent and the prosecution story of commission of offence of rape is not free from doubt and has therefore, acquitted the accused by giving him benefit of doubt.

5. In view of above consideration, the view taken by the learned trial Court being plausible and possible view, merely

because possibility of another view, we are not inclined to interfere with the judgment of acquittal, given the limited scope of interference against judgment of acquittal as per settled legal position.

6. Therefore, no sufficient ground is there to grant leave to appeal. Application is therefore, rejected.

Accordingly, CRMP is dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge

Ajay