

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No.1084 of 2020

State Of Chhattisgarh Through - Police Station Gandhinagar, District
Surguja (Chhattisgarh), District : Surguja (Ambikapur), Chhattisgarh

---- Petitioner

Versus

Tikam Sai Rajwade S/o Puran Sai Rajwade, Aged About 27 Years R/o
Village Ranpur Kala, P.S. Gandhinagar, District Surguja (Chhattisgarh),
District : Surguja (Ambikapur), Chhattisgarh

---- Respondent

For State/Petitioner : Mrs. Fouzia Mirza, Additional A.G.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

17/12/2020

Heard on application for grant of leave to appeal.

1. Though learned State counsel would argue that the acquittal has taken place despite clear and categorical evidence of the prosecutrix (PW2) that the accused entered her house in the night and committed rape, after going through the judgment of acquittal passed by the Trial Court, particularly taking into consideration the scrutiny of evidence of the prosecutrix (PW2), her daughter (PW1) and her husband (PW3) in para 25, 26, 27 & 28, we find that learned trial Court in order to come to the conclusion that allegation appears to be doubtful is based on the evidence led by the prosecutrix and her husband both that the husband was not in the house in that night but he had returned on the same night and wife has no pre-information of her husband returning in the night and further that husband had broken the door of the house and in the house, the prosecutrix and accused were found in objectionable condition. The evidence of daughter (PW1) has also been taken into consideration that she was sleeping in the same house and that the Court has also observed that had there been a case of forceful entry in the house and attempted to commit rape, the prosecutrix would have definitely called for help and fact that daughter was sleeping and there was no voice or any struggle, it appears to be a case of consent. Further, the Court has also taken into consideration that no external injury was also found on the body of the prosecutrix. Taking into consideration

the aforesaid circumstances and the evidence, the finding which has been recorded by learned Trial Court appears to be plausible and does not suffer from any patent illegality or perversity so as to call for interference, given the limited scope of interference against the judgment of acquittal. No case is made out for grant of leave to appeal. Therefore, the CRMP is dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Vimla Singh Kapoor)
Judge

Rekha