

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

ACQA No.771 of 2019

- Mirabai, W/o Ramsharan Jaiswal, Aged About 34 Years, Caste Kalar, R/o Jaijaipur Nagar Panchayat and Block Jaijaipur, District Janjgir, Chhattisgarh

---- Appellant

Versus

1. State Of Chhattisgarh Through Station House Officer, Police Station Jaijaipur, District Janjgir Champa, Chhattisgarh
2. Granth Das, S/o Bhagwat Das Panika, Aged About 32 Years, R/o SECL Rampur Kaliyari Thana Rampur District Jharsuguda (Odisha)

---- Respondents

For Appellant
For Respondent-State

Shri N. K. Malaviya, Advocate
Shri Aditya Sharma, PL

Hon'ble Justice Shri Prashant Kumar Mishra

Hon'ble Justice Shri Gautam Chourdiya

Order On Board by Shri Prashant Kumar Mishra J.

11/02/2020

1. Prayer seeking leave to appeal preferred by the State against the same impugned judgment has already been dismissed by us on 28.01.2020 in CRMP No.201/2020.
2. Record of CRMP No.201/2020 is available.
3. The order passed by us while refusing to grant leave to appeal is a reasoned order on merits. The order is reproduced herein for ready reference:-

“1. On due consideration delay of 100 days occurred in filing of the Cr.M.P. is condoned. Accordingly, I.A.

No.01/2020, for condonation of delay is allowed.

2. The trial Court has acquitted the accused of the charges under Sections 376 and 506 Part-II of the I.P.C.

3. Prosecutrix aged about 35 years was working as a Peon in the same school where accused was a teacher. On 17.12.2017, the prosecutrix had gone to the school. When she was returning, the accused called her to his house and committed forcible sexual intercourse. At this point of time her husband saw her bicycle parked near the house of the accused. He entered the house of the accused and found them in compromising position.

4. Considering the fact that the FIR was delayed by about 03 days and there is no satisfactory explanation for the delay and otherwise it appears to be the case of consent, we are not inclined to grant leave to appeal against acquittal.

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

4. The reason assigned by us while dismissing the CRMP/acquittal appeal preferred by the State, in our opinion, still holds good on the basis of evidence on record.
5. We have considered the argument raised by learned counsel for the appellant, however, considering the evidence adduced by the prosecution, we are not inclined to take any different view of the matter.
6. Accordingly, the acquittal appeal is dismissed.

Sd/-
Prashant Kumar Mishra
Judge

Sd/-
Gautam Chourdiya
Judge