

HIGH COURT OF CHHATTISGARH, BILASPUR

- State Of Chhattisgarh Through Its Station House Officer, Police Station Dhourpur, District Surguja, Chhattisgarh.

Versus

- Respondent

**Hon'ble Shri Justice Prashant Kumar Mishra &
Hon'ble Shri Justice Gautam Chourdiya**

By

13/01/2020

1. On due consideration delay of 158 days in filing of the Cr.M.P. is condoned. Accordingly, I.A. No.01, for condonation of delay occurred in filing of the Cr.M.P. is allowed.
2. The trial Court has acquitted the accused of the charges

under Sections 366, 343, 506, 376(2)(ढ) of the I.P.C. and Section 3(2)(5) of the The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. An FIR was registered on 18.04.2018 alleging that the accused abducted the prosecutrix, illegally restrained her and committed forcible sexual intercourse knowing that she belongs to the Scheduled Tribe Community.
4. Initially, report of missing person was lodged by the father of the prosecutrix. When the accused and prosecutrix were moving together near Ara School main road they were recovered and the Police enquired from the prosecutrix on which she informed that they are moving together in search of livelihood and they want to live as husband and wife and that they do not want to be separated. Thus, she did not inform the Police that the accused has abducted her and has committed forcible sexual intercourse.
5. In the above background, the prosecutrix has narrated a dramatized version of the entire incident when her case diary statement was recorded and thereafter she was examined in Court. As per the prosecutrix, she stayed with the accused for about 07 days and during this entire period she was subjected to sexual intercourse at different places and for number of times. During these 07 days she was

moving along with the accused to several neighboring villages and market places and met number of persons but she did not inform to any member of the locality complaining that she has been abducted and raped by the accused. Moreover, the medical report does not suggest that she was subjected to sexual intercourse and there is no positive FSL report as well. She being more than 18 years of age on the date of incident, the Learned trial Judge has rightly concluded that she was a consenting party in the entire incident and that the FIR was delayed without there being any explanation for such delay.

6. Considering the evidence on record, we are not inclined to grant leave to appeal against acquittal.
7. Accordingly, the Cr.M.P. deserves to be and is hereby dismissed.

SD/-

(Prashant Kumar Mishra)
Judge

SD/-

(Gautam Chourdiya)
Judge

Ayushi