

HIGH COURT OF CHHATTISGARH, BILASPUR
CRMP No. 1214 of 2020

- State Of Chhattisgarh Through The Police Station Kansabel, District Jashpur Chhattisgarh. **---- Petitioner**

Versus

- Sagar Bhuihar S/o Late Narayan Bhuihar, Aged About 35 Years R/o Village Kukrel, Fittingpara, P.S. Kansabel, District Jashpur, CG.

---- Respondent

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- Mr. Ravish Verma, GA for the State.
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D.B.: Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Vimla Singh Kapoor

Order on Board

Per Manindra Mohan Shrivastava, J.

21.06.2021

Heard on prayer for grant of leave to appeal.

Learned State counsel would argue that even though the prosecutrix has stated regarding she having subjected to rape by the appellant, learned trial Court has jumped to the conclusion of it being a case of consent only because there was no injuries found of the body of the prosecutrix ignoring that the prosecutrix has stated that she was assaulted and dragged in the night by the appellant. He would also submit that the Court has given undue weightage to the evidence of brother-in-law/Bodhsai (PW-1).

We heard learned counsel for the State and perused the statements of the prosecutrix, other witnesses and the statements of trial Court.

In order to hold that the accused is entitled to get benefit of doubt as the evidence on record makes out a plausible case of consent, the learned trial Court has not only taken into consideration the circumstances in which the prosecutrix had gone outside her house in the night and was seen with the accused in another place, but also that the prosecutrix did not have any injury on her body and PW-1 her brother-in-law has stated that when he had

searched for the prosecutrix in the night, she was seen in compromising situation with the accused for about 5 minutes at another place and thereafter she returned back home next day when she was scolded by this witness that she was indulging in illicit act, then only to save her face she lodged report in the police station.

In our considered view, the finding recorded by trial Court in the light of the aforesaid and other evidence does not appear to be perverse or suffering from patent illegality. Given the limited scope of interference against the judgment of acquittal, we do not consider present to be a fit case for grant of leave to appeal.

Accordingly, application is **rejected**.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Vimla Singh Kapoor)
Judge