

(2019) 08 CHH CK 0169

In the Chhattisgarh High Court

Case No : Criminal Miscellaneous Petition (CRMP) No. 1829 Of 2019

State Of Chhattisgarh

APPELLANT

Vs

Ashok Kumar Sharma

RESPONDENT

Date of Decision : 26-08-2019

Acts Referred:

Indian Penal Code, 1860 — Section 376, 450, 506

Citation : (2019) 08 CHH CK 0169

Hon'ble Judges : Prashant Kumar Mishra, J;Gautam Chourdiya, J

Bench : Division Bench

Advocate : Madhunisha Singh

Final Decision : Dismissed

Judgement

Prashant Kumar Mishra, J

1. On due consideration, delay of 84 days in filing the CRMP is condoned. Accordingly, IA No.1/2019 is allowed.

2. The Trial Court has acquitted the accused of the charges under Sections 450, 376 and 506 (Part-II) of IPC.

3. The prosecutrix, examined as PW-5, is a married lady, aged about 31 years. The alleged incident happened at about 12-1 noon on 28.01.2017. As per her statement, the incident was informed to her husband on the same day and thereafter she went to her parental house, wherefrom she returned after 3 months and lodged the FIR. Contrary to this, her husband Dileshwar (PW-6) states that his wife informed about the incident after one and half months. She would also state that the sexual intercourse continued for about one hour. There is evidence on record that the prosecutrix used to visit the house of the accused to fetch water from the well inside the kitchen garden of the accused's house. Although, the prosecutrix alleges commission of sexual intercourse only once, the tenor of the statement made by her husband would speak as if the accused was regularly performing sexual intercourse with the prosecutrix.

4. Considering the nature and quality of evidence, the Trial Court has rightly acquitted the accused.
5. No case for grant of leave to appeal is made out. Accordingly, the CRMP is dismissed.