

(2020) 03 CHH CK 0093

In the Chhattisgarh High Court

Case No : Criminal Miscellaneous Petition (CRMP) No. 651 Of 2020

State Of Chhattisgarh

APPELLANT

Vs

Dipesh Kumar Rathore And Ors

RESPONDENT

Date of Decision : 13-03-2020

Acts Referred:

Indian Penal Code, 1860 — Section 363, 366, 376(??)
Protection Of Children From Sexual Offences Act 2012 — Section 6
Scheduled Castes & Scheduled Tribes (Prevention Of Atrocities) Act, 1989 — Section 3(2)(v)
Code Of Criminal Procedure, 1973 — Section 164

Citation : (2020) 03 CHH CK 0093

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

Bench : Division Bench

Advocate : Rajendra Tripathi

Final Decision : Dismissed

Judgement

@JUDGMENT-JUDGMENT

Prashant Kumar Mishra, J

1. On due consideration delay of 82 days 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 persons of the charges under Sections 363, 366, 376(??) of the IPC; Section 6 of the Protection of Children from Sexual Offences CRMP No. 651 of 2020 Act, 2012 and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. Evidence available in the case particularly the deposition of the prosecutrix would reveal that she was subjected to sexual intercourse amounting to gang rape by several persons on different occasions within a period of two months from 12.03.2018 to 13.05.2018. However, the FIR was lodged on 27.05.2018 wherein she did not name respondent No.2 - Amarjeet. In her statement under

Section 164 Cr.P.C. (Ex-P-13) she named respondent No.2 Amarjeet for the first time. Although, respondent No.1 - Dipesh Kumar Rathore was named in the FIR but in the Court she refused to identify him. In her entire deposition she has not named the present respondents as the persons who committed rape with her either singly or gang rape during the two months period.

4. Considering the evidence of the prosecutrix, the present is not considered to be a fit case for grant of leave to appeal.

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