
(2019) 07 CHH CK 0184

In the Chhattisgarh High Court

Case No : Criminal Miscellaneous Petition (CRMP) No. 1726 Of 2019

State Of Chhattisgarh

APPELLANT

Vs

Pradeep @ Dev And Ors

RESPONDENT

Date of Decision : 31-07-2019

Acts Referred:

Indian Pena Code, 1860 — Section 363, 366, 376(2D), 376(2G)
Protection Of Children From Sexual Offences Act, 2012 — Section 6, 34
Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 — Section 3(2)(v)

Citation : (2019) 07 CHH CK 0184

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

Bench : Division Bench

Advocate : SK Mishra

Final Decision : Dismissed

Judgement

Prashant Kumar Mishra, J

1. Heard on IA No.1, an application for condonation of delay of 61 days in filing the CRMP.
2. On due consideration, the application is allowed and the delay is condoned.
3. Also heard on admission.
4. The trial Court has acquitted the accused of the charges under Sections 363/34, 366/34, 376 (2D)(2G)/34 of IPC, Section 6 read with Section 34 of the Protection of Children from Sexual Offences Act, 2012 and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.
5. The father of the prosecutrix lodged an FIR on 24.7.2015 alleging kidnapping of the prosecutrix at about 10:00 p.m. on 23.7.2015. When the prosecutrix was traced, she informed the Police that the accused persons have committed gang rape against her and have also made her to consume alcohol or some

intoxicating substance. However, the Medical Officer examining her has not found any injury either external or internal over any part of the body of the prosecutrix or even in her private part. The FSL examination of the vaginal swab/slide has tested negative. Thus, the entire medical evidence is contrary to what the prosecutrix would state against the accused persons.

6. The trial Court has found that the prosecutrix's allegation that the accused persons forcefully kidnapped her is not finding support from independent witnesses PW-3 Samaydas , PW-7 Surajlal Lahre and PW-28 Madan Lal Netam, who had seen the prosecutrix moving alone from her house and proceeding on a motorcycle with another person. There is no evidence that the prosecutrix raised any protest or offered resistance at the time she was moving on the motorcycle. It has also been found by the trial Court that the prosecutrix was moving with accused Pradeep @ Dev and had gone again to Raipur with him after CRMP No. 1726 of 2019 once returning to the village. Thus, the allegation of abduction is also doubtful.

7. Considering the nature and quality of evidence available on record, we are not inclined to grant leave to appeal.

8. The CRMP is dismissed.