

(2019) 09 CHH CK 0143

Chhattisgarh High Court

Case No: Criminal Miscellaneous Petition (CRMP) No. 199 Of 2019

State Of Chhattisgarh Through
Its Station House Officer

APPELLANT

Vs

Sajjad Mohammad And Ors

RESPONDENT

Date of Decision: Sept. 23, 2019

Acts Referred:

- Indian Penal Code, 1860 - Section 109, 376(1), 376(2), 506, 509B
- Scheduled Castes And Scheduled Tribes (Prevention Of Atrocities) Act, 1989 - Section 3(1)(wi), 3(1)(wii), 3(2)(v)
- Information Technology Act, 2000 - Section 66E, 67A

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

Bench: Division Bench

Advocate: Pawan Kesharwani

Final Decision: Dismissed

Judgement

Prashant Kumar Mishra, J

1. This Acquittal appeal has been preferred by the State challenging the said part of the order passed by the trial Court sentencing the accused with

less than minimum jail CRMP No. 199 of 2019 sentence as provided for offence under Section 376(1) of I.P.C. Consequent upon amendment in the

said provision w.e.f. 03.02.2013, the minimum jail sentence is now 10 years instead of 7 years. The trial Court has thus failed to take note of the

minimum statutory sentence under the provision.

2. On due consideration, the Cr.M.P. is allowed.

3. Let regular Acquittal Appeal be registered and the same be placed for consideration in the week after next along with the Criminal Appeal which

may have been filed by the accused challenging the conviction under the impugned judgment. The Registry shall find out the appeal and place it along with the Acquittal appeal in the week after next.

4. While hearing the Acquittal Appeal we shall also hear the accused's acquittal for offence under Section 376(2), 506 Part-II and 509B of I.P.C. and

Section 3(1)(w-i)(w-ii) and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

5. In so far as acquittal of co-accused namely Abhay Shukla is concerned there is absolutely no evidence that except for allowing accused Sajjad

Mohammad and the prosecutrix to stay in his house, he was involved in any other overtact, therefore, his acquittal for offence under Section 376 read

CRMP No. 199 of 2019 with Section 109 of I.P.C., Section 509B read with Section 109 of I.P.C. and Section 3(1)(w-i)(w-ii) read with Section 109 of

I.P.C. and Section 3 (2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 read with Section 109 of I.P.C. as also

under Section 66E of the Information Technology Act, 2000 read with 109 of I.P.C. and under Section 67A of the Information Technology Act, 2000,

does not call for any interference.

6. Accordingly, grant for leave to appeal against acquittal of accused namely Abhay Shukla is dismissed, however, it is allowed in respect of Sajjad

Mohammad in the terms indicated above.

7. Place the Acquittal Appeal against Sajjad Mohammad and the Criminal Appeal filed by him, if any, in the week after next.