

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU

CrI LP (D) No. 57/2023
CrIM No. 1316/2023

UT of J & K

.....Applicant(s)/Petitioner(s)

Through :- Mr. Ravinder Gupta, AAG

v/s

Zulfkar Ahmed & Ors.

.....Respondent(s)

Through :- Mr. Nahiem Sheikh, Advocate

CORAM: HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE
HON'BLE MR. JUSTICE SANJAY PARIHAR, JUDGE

ORDER
18.08.2025

CrIM No. 1316/2023

1. The leave to file acquittal appeal is delayed by 97 days, therefore, the instant application for condonation of delay.
2. Despite opportunities granted, the respondents have not filed any objections. Otherwise also, we have gone through the contents of the application and are satisfied that sufficient cause has been demonstrated, which prevented the applicant from filing an application for leave to appeal within the period of limitation.
3. **The application is, therefore, allowed and the delay of 97 days in filing leave application is condoned.**

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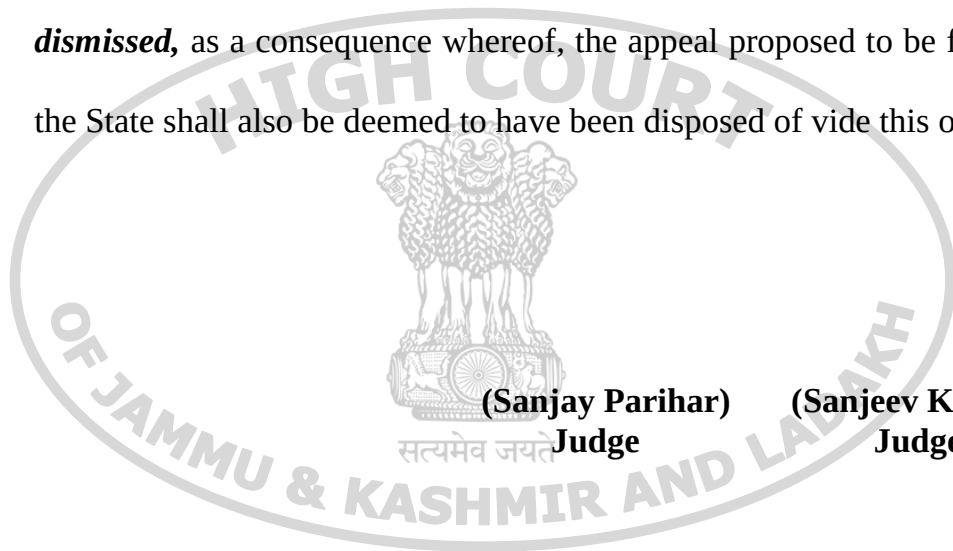
1. This is an application by the applicant seeking leave of this Court to file appeal against the judgment of acquittal dated 04.03.2023, passed by the Court of Additional District & Sessions Judge, Poonch [**“the trial Court”**] in case titled “*State Vs. Zulfkar Ahmed & Ors.*” [FIR No.

03/2013, P/S Surankote for the offences under Sections 376, 363, 109 RPC].

2. The leave is sought by the applicant on the ground that the judgment impugned suffers from grave perversity, in that, the trial Court has failed to appreciate the evidence in correct perspective and has let off the respondents guilty of commission of heinous offences.
3. The leave application is opposed by Mr. Nahiem Sheikh, learned counsel appearing for the respondents. He would submit that the trial Court has evaluated the entire evidence in correct perspective and has come to the conclusion that the victim/prosecutrix was within the consenting age and at her own free will and volition eloped with Respondent No. 1. He would, therefore, urge us to decline the request of the applicant to grant leave to file acquittal appeal.
4. **Having heard learned counsel for the parties and perused the judgment impugned, we are of the considered opinion that the judgment sought to be challenged by the applicant is legally and factually correct.**
5. As per the prosecution, the age of the victim on the date of occurrence i.e. 15.01.2013 was 17 years and 08 months, as per the matriculation marks sheet of the girl produced by the complainant Ghulam Abbas. On the date of occurrence, the Ranbir Penal Code [“RPC”] Svt. 1989 as it stood prior to Jammu & Kashmir Criminal Laws (Amendment) Act, 2013 was in force and as per “description sixthly” of Section 375, the age of consent was 16 years which was, however, raised to 18 years only w.e.f. 22.03.2014 when the Jammu & Kashmir Criminal Laws (Amendment) Act, 2013 came into operation.
6. Viewed thus, the prosecutrix, as on the date of occurrence, was more than 16 years and, therefore, competent to give consent. From the other

evidence on record and even going by the prosecution story as it is, it is crystal clear that the victim had eloped with Respondent No. 1 of her own free will and volition and stayed at different places. The entire evidence points to the fact that the prosecutrix was all along the consenting party and no sexual intercourse with her by respondents had taken place against her wish.

7. Mr. Ravinder Gupta, learned AAG appearing for the applicant/appellant could not demonstrate any illegality or infirmity committed by the trial Court in evaluating the evidence on record, which would persuade us to re-evaluate the evidence and revisit the judgment of acquittal.
8. For the foregoing reasons, we do not find any justification in granting leave to file acquittal appeal. ***The instant application is, accordingly, dismissed,*** as a consequence whereof, the appeal proposed to be filed by the State shall also be deemed to have been disposed of vide this order.



(Sanjay Parihar)
Judge

(Sanjeev Kumar)
Judge

JAMMU
18.08.2025
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Whether the order is speaking : Yes/No
Whether the order is reportable : Yes/No