

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 164 of 2017

1. State of Chhattisgarh Through the Police Station Ambagarh Chouki, District Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

1. Anil Kunjam S/o Kapil Kunjam, aged about 28 years, R/o Village Hirange, Police Station Murumgaon, District Gadchirouli, Maharashtra.
2. Laxmi Prasad S/o Lehram Uraon, aged about 22 years, R/o Village Kande, Police Station Manpur, District Rajnandgaon, Chhattisgarh.

---- Respondents

For Applicant / State – Shri Om P. Sahu, Govt. Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

22/03/2017

1. The instant Cr.M.P. under Section 378(3) of the Code of Criminal Procedure, 1973 (in short 'the Code') has been preferred after 13 days of its limitation.
2. Heard on I.A.No.1/2017 for condonation of delay in filing the instnat Cr.M.P.
3. On due consideration, for the reasons mentioned in I.A.No.1/2017 and the argument advanced on behalf of the applicant, this Court is of the considered view that the applicant had satisfactorily explained the delay of 13 days in filing the instant Cr.M.P. followed by acquittal appeal. Consequently, I.A.No.1/2017 is hereby allowed and the delay of 13 days is hereby condoned.
4. Also heard on the instant Cr.M.P. for leave to appeal against the judgment dated 06-10-2016 passed in Sessions Case No. 57/2014 by the Additional Sessions Judge (FTC), Rajnandgaon, C.G. whereby and whereunder the Court below acquitted the respondents from the charges under Section 366/34 of the IPC.

5. Learned State counsel would submit that the complainants, P.W.-6 and Rekhabai (PW-10) in their examination-in-chief deposed against the respondents, duly supported by Vinod Kumar Netam (PW-1) regarding kidnapping both the victims so as to compel them for illicit intercourse or for other purpose, physical exploitation. The Court below failed to appreciate the material evidence adduced by both the complainants and corroborating statement of other witnesses. With this, the applicant had a good case for grant of leave to appeal, therefore, leave may be granted and the acquittal appeal may be heard on its merit.

6. Perused the documents annexed.

7. As per the statement of the PW-6, the victim and Rekhabai (PW-10), both have taken lift in the vehicle in which both the accused were present. In their cross-examination they admitted the entire defence and suggestions by admitting that they themselves asked the accused to drop them at village Vijaypur, that is why both the accused persons had not stopped the said matador at Murethitola, and they were going to Vijaypur of their own and both the accused had not committed anything wrong with them, they have lodged the report on pressure. By appreciating the entire evidence adduced by both aforementioned witnesses, it would not be safe to held that ingredients of Section 366 read with Section 34 of the IPC is proved against the accused persons merely on the basis of the evidence of Vinod Kumar Netam (PW-1) when the victims themselves are not supporting the prosecution's case.

8. Upon entire consideration, the Court below held that as there is no any material on record that both the complainants being kidnapped for the purposes of illicit intercourse or physical exploitation or to compel them for illicit marriage, and as they were heading towards Vijaypur of their own, both the accused not said anything nor acted anything to demonstrate their intention for the offence.

9. On due consideration, this Court is of the view that the Court below has not committed any wrong by acquitting the accused for the offence.

Consequently, as the instant Cr.M.P. has no substance, the same is dismissed along with the acquittal appeal filed.

10. The Cr.M.P. dismissed.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE