

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 894 of 2017

(Arising out of judgment/order dated 23.02.2017 in Case No. R 12 of 2014
of the learned Additional Sessions Judge, Ramanujganj)

State of Chhattisgarh Through District Magistrate Balrampur, Ramanujganj,
Chhattisgarh.

---- Appellant

Versus

Sunil @ Motu S/o Prem Ghasiya, Aged About 20 Years R/o Village,
Dignagar, Police Station Rajnagar, District- Balrampur, Ramanujganj,
Chhattisgarh.

---- Respondent

For the Applicant	:- Mr. Vivek Sharma, Govt. Advocate
For the Respondent	:- None

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board By Pritinker Diwaker, J.

12/09/2017

1. Heard on I.A.No. 1 of 2017, application for condonation of delay in filing the appeal.
2. For the reasons mentioned in the application, the same is allowed. Delay in filing the appeal is condoned.
3. Heard on admission.
4. Present CRMP has been filed by the State seeking leave to appeal under Section 378(3) of the Code of Criminal Procedure, 1973 assailing the judgment and order dated 23.02.2017 passed by Additional Sessions Judge, Ramanujganj, in S.T. No.R-12/2014 acquitting the

accused/respondent of the offence under Sections 363,366,376(1) of the IPC.

5. As per prosecution case on 12.07.2008 FIR (Ex.P-5) was lodged by the prosecutrix (PW-1), aged about 15 years, alleging in it that on 09.06.2008 when she had gone to work in bricks klin, the respondent forcibly took her to the house of his relative and there he committed sexual intercourse with her. Based on this FIR (Ex.P-5), offence under Sections 363,366,376 of the IPC was registered against the respondent.

6. So as to hold the respondent guilty, the prosecution examined as many as six witnesses. Statement of the accused/respondent was recorded under Section 313 of Cr.P.C. in which he pleaded innocence and false implication.

7. The trial Court after hearing counsel for the respective parties and considering the material available on record has acquitted the accused/respondent as mentioned in para-1 of this judgment. Hence, this petition.

8. Counsel for the appellant submits that the impugned judgment is not in accordance with law and the trial Court has not appreciated the evidence adduced by the prosecution in proper perspective. He further submits that the trial Court should have relied upon the statement of the prosecutrix and ought not to have acquitted the respondent.

9. We have heard learned counsel for the parties and perused the material available on record.

10. From perusal of the record, it is apparent that there is inordinate delay of about one month in lodging the FIR and the same has been not explained by the prosecutrix as required under the law. The prosecutrix remained along with the respondent for more than one month, without

offering any resistance or protest. Even there is no legally admissible evidence including documentary evidence showing the prosecutrix to be minor at the time of incident. After considering all the aspects of the case, the trial Court has come to the conclusion that the respondent is liable to be acquitted and the view taken by the trial Court is one of the possible views. The prosecution thus utterly failed in proving its case beyond reasonable doubt and the trial Court has been fully justified in recording the finding of acquittal which is based on proper appreciation of evidence available on record. That apart, the settled legal position is that if two reasonable conclusions are possible on the basis of evidence on record the Court should not disturb the finding of acquittal recorded by the trial Court, also comes to the rescue of the respondent/accused bolstering the presumption that he is innocent.

11. Accordingly, the CRMP preferred by the applicant is bereft of any substance, the same is liable to be and is hereby dismissed as such at the admission stage itself.

Sd/-
(Pritinker Diwaker)
JUDGE

Sd/-
(Ram Prasanna Sharma)
JUDGE

Santosh