

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1539 of 2018

- State Of Chhattisgarh Through The Station House Officer, Police Station Hasaud District Janjgir Champa Chhattisgarh

---- Petitioner

Versus

- Deepak Kumar @ Ajay Aged About 25 Years R/o Village Pendri, Police Station Hasaud District Janjgir Champa Chhattisgarh

---- Respondent

For Petitioner/State : Shri Anil Pillai, Dy.A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

27/11/2018

Heard on application for condonation of delay in filing this petition.

Upon due consideration of the grounds urged in the application, delay is condoned.

Also heard on prayer for grant of leave to appeal.

Learned State counsel would argue that the prosecution has led clinching documentary evidence of entries made in the school register with regard to proof of age of the prosecutrix that on the date of alleged commission of offence, she was less than 18 years of age but the same has been disbelieved by the learned Trial Court.

We have gone through the judgment and evidence led by the prosecution.

The school records which were produced before the Court has been disbelieved because the author of the document and in whose instruction, such entries were made in the register, could not be examined. Except this, there is no other evidence to prove the age of the prosecutrix by any reasonable standard. We do not find that any ossification test has been conducted to examine the age of the prosecutrix. The oral evidence on record also does not state regarding definite age or date of birth of the prosecutrix. In this background, learned Trial Court taken a view that the prosecution did not prove beyond reasonable doubt that the prosecutrix was less than 18 years of age on the date of incident.

In the absence of any patent illegality or perversity in the finding of the learned Trial Court, we do not consider it to be a fit case for grant of leave to appeal.
This petition is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge