

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1760 of 2018

State Of Chhattisgarh Through- Police Station Ajak, Ambikapur, District-
Surguja, Chhattisgarh. ---- **Appellant**

Versus

1. Fuleshwar Ram @ Pandra S/o Mahkul Bargah Aged About 20 Years R/o-
Village Karoundi, Police Station Udaypur, District- Surguja, Chhattisgarh.,
2. Ran Sai S/o Dal Sai Bargah Aged About 61 Years R/o- Village Surta, Police
Station Ramanujnagar, District- Surajpur, Chhattisgarh ---- **Respondents**

For State/Appellant : Mr. Ramakant Mishra, Dy. A.G.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order on Board

26/11/2018

Heard on (I.A. No.1) application for condonation of delay in filing application for grant of leave to appeal.

Upon due consideration, the delay in filing application for grant of leave to appeal is condoned.

The application (I.A. No.1) is allowed.

Also heard on application for grant of leave to appeal.

1. Learned State counsel would submit that even though the prosecution came out clinching evidence of the prosecutrix, PW3 (the name is not disclosed), wherein she has clearly stated in examination-in-chief regarding she having been subjected to sexual intercourse against her wishes by the respondent accused and the prosecutrix's age having been proved by the production of documentary evidence in the form of *dakhila* register duly proved during trial as also the oral evidence, the respondent accused has been acquitted without due consideration of the incriminating evidence on record.
2. We have gone through the material on record, particularly, the evidence of the prosecutrix (PW3). Even if we were to accept the argument of the learned State counsel that the prosecutrix was less than 18 years of age on the alleged date of incident, what she has stated in her examination renders her evidence highly

doubtful because in her cross-examination, she has admitted all suggestion that the accused did nothing to her, she was not abducted nor kept in wrongful confinement. She has also admitted that she had not gone with the accused anywhere nor the accused had committed any overt act on the false pretext of marriage. She has admitted, in her cross-examination, that she was not examined by the prosecution. She was not interrogated by the police nor any statement was recorded.

3. Learned Trial Court has carefully examined the prosecutrix evidence and because of such serious discrepancy particularly, what has been stated by her in her cross-examination, has acquitted the accused by giving him benefit of doubt. The view which has been taken by the trial Court on the aforesaid evidence can neither be said to be perverse nor suffering from any patent illegality so as to warrant interference by the family Court. Therefore, we do not consider it present to be a fit case for grant of leave to appeal. Therefore, application for grant of leave to appeal is rejected.

4. Accordingly, CRMP is dismissed.

5. The records of the Court below be sent back forthwith.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge