

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2046 of 2018

The State Of Chhattisgarh Through District Magistrate, District- Balodabazar-
Bhatapara, Chhattisgarh ---- **Petitioner**

Versus

Ashutosh Karsh S/o Santram Karsh Aged About 24 Years R/o Korkoti, Police
Station- Bilaigarh, District- Balodabazar- Bhatapara, Chhattisgarh
---- **Respondent**

For State : Mr. R.K. Mishra, Dy. A.G.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

04/12/2018

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 had come out with specific documentary evidence regarding the date of birth of the prosecutrix, the same has been disbelieved by learned Trial Court only because it is contradictory with the oral evidence with regard to the age of the prosecutrix.
2. We have gone through the impugned judgment and also the evidence led by the prosecution. The evidence of the prosecutrix Khushbu Tandon (PW2) is very clear that she and the accused had developed an affair and thereafter eloped and also performed marriage in a temple.
3. As far as the age of the prosecutrix is concerned, the prosecution case with regard to the prosecutrix being less than 18 years is based on the certificate of the school which has not been proved by producing original records nor it has been proved that the age of the prosecutrix is recorded on the basis of declaration made by

the parents of the prosecutrix. The Kotwari records were also not produced. The trial Court has minutely scrutinized the oral evidence and found that there is contradiction in the date shown in the certificate and the oral evidence. Therefore, on that basis, learned trial Court has granted benefit of doubt to the accused. The view which has been taken by learned trial Court does not appear to be suffering from any patent illegality, perversity or in ignorance of any clinching material incriminating evidence on record but the view taken by learned Trial Court being a possible one, we are not inclined to interfere with the impugned judgment of acquittal. Therefore, the application for grant of leave to appeal is rejected.

4. The present CRMP is accordingly disposed off.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge