

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 309 of 2019**

- State Of Chhattisgarh Through Its Station House Officer, Police Station Jaijaipur, District Janjgir Champa, Chhattisgarh

---- Petitioner

Versus

- Raju Khunte S/o Trilochan Aged About 21 Years R/o Village Senduras, Police Station Malkharouda, District Janjgir Champa, Chhattisgarh

---- Respondent

For Petitioner : Shri Suryakant Mishra, Advocate

D.B.:- Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Rajani Dubey****Order On Board****05/04/2019**

Heard on I.A.No.1/19, application for condonation of delay in filing appeal.

Upon due consideration, the application is allowed.

Delay is condoned.

Also heard on prayer for grant of leave to appeal.

Learned State counsel would argue that the learned Trial Court committed patent illegality and perversity in acquitting the respondent / accused though having recorded that the prosecutrix is less than 18 years of age, medical evidence and statement of the prosecutrix recorded before Child Welfare Committee, which the prosecutrix (PW2) admitted.

We have gone through the impugned judgment of acquittal and the evidence on record particularly the evidence of the prosecutrix (PW2) wherein she has not supported the prosecution case and has stated that nothing happened to her nor the respondent did anything to her. She has been declared hostile and cross-examined but nothing could be elicited to say that there is any evidence of sexual intercourse on the prosecutrix by the respondent / accused. The prosecutrix has stated that she

had gone to attend a fair with the respondent / accused and when she came back, she was seen by her uncle and out of fear, she had run away.

In view of the aforesaid statement of the prosecutrix, even though the prosecutrix is found to be less than 18 years of age, learned Trial Court held that it is a case where the prosecution has failed to prove the allegations of sexual intercourse with the prosecutrix beyond doubt and acquitted the respondent / accused.

In our opinion, on the basis of such statement of the prosecutrix, the view taken by the Trial Court and finding of acquittal of the respondent, is plausible and possible. Keeping in forefront the limited scope of interference against judgment of acquittal, we do not find present to be a fit case to interfere with the judgment of acquittal.

Application for grant of leave to appeal is accordingly rejected. The present CrMP is accordingly dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge