

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 833 of 2019

- State Of Chhattisgarh Through Police Station Raghunathnagar, District Balrampur Place Ramanujganj, District : Balrampur, Chhattisgarh

---- **Petitioner**

Versus

- Premshankar Kushwaha S/o Shri Ram Chander Kushwaha Aged About 24 Years R/o Village Jaurahi, Police Station Raghunathnagar, District Balrampur Ramanujganj

---- **Respondent**

For Petitioner : Shri Anand Verma, Dy.G.A.

D.B.- Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Vimla Singh Kapoor

Order On Board

18/04/2019

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

Upon due consideration, the application is allowed.

Delay is condoned.

Also heard on application for grant of leave to appeal.

Learned counsel for the State submits that even though the prosecutrix has clearly stated regarding rape having been committed by the respondent / accused, learned Trial Court acquitted the respondent by giving him benefit of doubt only on the circumstance that DNA test of the offspring did not match.

We have gone through the impugned judgment and the evidence on record particularly of the prosecutrix (PW1) and Dr.Kamini Rai (PW6). The evidence of the doctor shows that at the time when the prosecutrix was brought for check up, she was carrying pregnancy of about 6½ months and last intercourse is stated to be about two months before. The allegations of commission of rape is during the

period of pregnancy. The prosecutrix, in her cross-examination, was given suggestion that she already has an affair with another person since long. The prosecutrix has not disclosed complete fact regarding her relationship.

Considering all these material, learned Trial Court found it doubtful that it is the appellant who had committed rape on the prosecutrix and was given benefit of doubt.

Taking into consideration the aforesaid material on record, which has been made basis by the learned Trial Court to arrive at the finding that the case of the prosecution has become doubtful and acquitted the respondent, we are not inclined to grant leave to appeal. The application for grant of leave to appeal is rejected. The present CrMP is accordingly dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Vimla Singh Kapoor)
Judge