

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 834 of 2019

- State Of Chhattisgarh Through Station House Officer, Police Station Patna, District – Koriya, Chhattisgarh

---- Petitioner

Versus

1. Pradeep Kumar Singh, S/o Gambhi Singh, Aged About 26 Years, R/o Village Gangapur, Police Station Odgi, District : Surajpur, Chhattisgarh
2. Surendra Singh, S/o Jaijeet Singh Aged About 32 Years, R/o Village Gangapur, Police Station Odgi, District : Surajpur, Chhattisgarh

---- Respondents

For Petitioner/State : Shri Vikash Shrivastava, PL

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board by Hon'ble Shri Justice Manindra Mohan Shrivastava

02.05.2019

1. Heard on application for condonation of delay in filing appeal.
2. Upon due consideration, the application is allowed.
3. Delay is condoned.
4. Also, heard on application for grant of leave to appeal.
5. Learned counsel for the State would argue that the learned trial Court committed illegality and perversity in granting acquittal to respondent/accused only on the ground that it was a case of consent ignoring, the clinching evidence on record with regard to age of prosecutrix that on the date she had eloped with the respondent and stayed with him and entered into sexual intercourse, she was less than 18 years of age.
6. After going through the judgment of acquittal and evidence on record, particularly that of the prosecutrix, her father(PW-2) and the school records, we find that the learned trial Court has granted benefit of doubt to the respondent. In view of two sets of oral and documentary evidence with regard to the age of the

prosecutrix (A. 27.11.1999, B. 04.01.1997). The PW-2, father of the prosecutrix in his cross examination has stated that his son was born on 27.11.1991 and the prosecutrix is four years younger to the son.

7. Considering the aforesaid evidence, the learned trial Court has granted the accused benefit of doubt because the prosecution failed to prove beyond reasonable doubt that the prosecutrix on the date of alleged commission of offence was less than 18 years, and the view taken by the trial Court appears to be plausible view, based on the evidence.
8. The view taken by the learned Trial Court in granting acquittal by giving respondent/accused benefit of doubt, in so far as the allegation commission of rape is concerned, we find ourselves unable to interfere with judgment of acquittal, keeping in view the limited scope of interference against the judgment of acquittal. We, accordingly, do not consider present to be a fit case to grant leave to appeal.
9. Accordingly, CRMP is dismissed at the admission stage itself.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge