

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 872 of 2019

State Of Chhattisgarh Through-Station House Officer, Police Station-Arang,
District- Raipur, Chhattisgarh

---- Petitioner

Versus

Sanesh Yadav S/o Narad Yadav Aged About 31 Years R/o Kosamkunta, Police
Station-Arang, District- Raipur, Chhattisgarh

--- Respondent

For Petitioner/State : Mr. Vikash Shrivastava, Panel Lawyer.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

18/06/2019

1. Heard on application (I.A. No. 1) for condonation of delay in filing the appeal.
2. Upon due consideration, the application is allowed. Delay in filing the appeal is condoned.
3. Heard on prayer for grant of leave to appeal.
4. Learned State Counsel would argue that the learned trial Court has committed gross illegality and patent perversity in acquitting the respondent-accused despite the prosecutrix supporting the prosecution case that she was subjected to rape by the respondent-accused.
5. After having perused the impugned judgment and the evidence on record, particularly that of the prosecutrix, her husband and the medical evidence, we find that the learned trial Court, in order to grant the accused benefit of doubt, has taken into consideration that even though, there was delay of about 8 days in lodging FIR, it was not explained by any of the prosecution witnesses particularly the prosecutrix. Moreover, the learned trial Court also found that there was no sign of injury on any part of body of the prosecutrix and there is no evidence to show that she was so much threatened that she was not in a position to offer any resistance. This was taken into consideration by the learned trial Court as one of the circumstances creating doubt over the story of the prosecution. Both the prosecutrix and accused are major and are known to

each other. In this background of the evidence on record, the view taken by the learned trial Court that the prosecution story is not free from doubt and, therefore, the accused is entitled to benefit of doubt is a possible view based on established circumstances. Therefore, keeping in view the limited scope of interference against judgment of acquittal, merely because another view may be possible, we are not inclined to interfere with the impugned judgment of acquittal.

6. The prayer for grant of leave to appeal is accordingly rejected and the petition is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge