

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1032 of 2019

- State Of Chhattisgarh Through The In Charge Police Station Ramanujganj, District Balrampur - Ramanujganj Chhattisgarh

---- Petitioner

Versus

- Sohail Arif S/o Abdul Kayyum Aged About 30 Years R/o Ward No. 3, Ramanujganj , Police Station Ramanujganj, District Balrampur - Ramanujganj Chhattisgarh

--- Respondent

For Petitioner/State : Shri Subhash Yadav, Dy. G. A.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

28/06/2019

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 submit that the learned trial Court has not appreciated the evidence led by the prosecution in the light of the tender age of the prosecutrix that she was subjected to rape. He also submits that the learned trial Court has wrongly recorded a finding, ignoring documentary evidence that the prosecutrix was less than 18 years of age, therefore, she was not in a position to offer resistance to the act of sexual intercourse.
5. Even if we accept the submission of learned State Counsel that the prosecution led evidence to prove that the prosecutrix was less than 18 years of age, the evidence of prosecutrix (PW 1) itself, does contain any whisper that she was subjected to any sexual intercourse. When she did not support the prosecution case, she was declared hostile and thereafter, despite repeated suggestions given to her regarding commission of rape, she has emphatically denied all those suggestions that she was subjected to rape. On the face of the evidence of the prosecutrix, the view taken by the learned trial Court that the accused is entitled to benefit of doubt because the prosecution has failed to prove its case beyond reasonable doubt, appears to be plausible

view and does not suffer from any patent illegality.

6. No case for grant of leave to appeal is made out.
7. The petition is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge

Ravi