

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1510 of 2018

State Of Chhattisgarh Through- Police Station Sejbahar, District- Raipur,
Chhattisgarh., District : Raipur, Chhattisgarh

---- Petitioner

Versus

Rajkumar Sahu S/o Bhanuram Sahu Aged About 24 Years R/o- Village Mohline
Police Station Gariyaband, District- Gariyaband, Chhattisgarh. Presently
Residing At Village Dhaneli, Police Station Sejbahar, District- Raipur,
Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondent

For Appellant/State : Shri K.K. Singh, Govt. Advocate

For Respondent : Shri M.K. Beg, Advocate

**D.B. : Hon'ble Mr. Justice Manindra Mohan Shrivastava &
Hon'ble Mrs. Justice Rajani Dubey**

Order On Board

26/02/2019

1. Heard on IA No.1, application under Section 5 of the Limitation Act for condonation of delay occurred in filing the appeal.
2. Upon due consideration of the grounds urged in the application, we are inclined to allow the same. Accordingly, the application is allowed. Delay in filing the appeal is condoned.
3. Heard on prayer for grant of leave to appeal.
4. Learned counsel for the State/appellant would argue that even though there was an oral evidence that the date of birth of the prosecutrix is 7.7.1997, learned trial Court has disbelieved the prosecution version and has recorded that prosecution has failed to prove by reliable evidence, insisting only on documentary evidence.
5. After going through the impugned judgment of acquittal and the material on record, particularly taking into consideration the evidence of the prosecutrix and the oral and documentary evidence with regard to age of the prosecutrix,

we find that the prosecutrix appears to be a consenting party because she had eloped with respondent, resided with him for more than a month.

6. As far as age part is concerned, learned trial Court has recorded finding that prosecution though came out with copy of certain entries in the school register, but the same has not been proved in accordance with law and in that background, learned trial Court has granted benefit of doubt as the age of the prosecutrix is sought to be proved mainly on the basis of oral evidence.
7. The view which has been taken by the learned trial Court does not appear to be suffering from patent illegality or contrary to any settled legal position with regard to assessment of age. We do not, therefore, find any ground for interference with the impugned judgment of acquittal taking into consideration the limited scope of interference against the judgment of acquittal.
8. Therefore, no case for grant of leave to appeal is made out.
9. The petition is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge