

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1813 of 2018

State Of Chhattisgarh Through- The Incharge Police Station Mohla, District-
Rajnandgoan, Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Petitioner

Versus

Umesh Hidamain S/o Sagnuram Hidamain Aged About 28 Years R/o- Village
Baginsur, P.S. Mohla, District- Rajnandgaon, Chhattisgarh., District :
Rajnandgaon, Chhattisgarh

---- Respondent

For Appellant/State : Shri Suryakant Mishra, Panel Lawyer

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

Order On Board

10/01/2019

1. Heard on IA No.1, application for condonation of delay 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 State counsel would submit that the acquittal of the respondent-accused by the learned trial Court is an ignorance of clinching evidence on record as the prosecutrix in her statement under Section 164 Cr.P.C. recorded before the Magistrate had stated regarding commission of rape on her by the respondent-accused and the evidence on record including that of the prosecutrix ought to be appreciated in this background.
5. We have carefully gone through and scrutinized the evidence of the prosecution witnesses particularly that of the prosecutrix. The prosecutrix has not supported the case of the prosecution and has completely turned hostile and on the other hand she has stated that she married respondent

in the year 2016 and they had sexual intercourse only after solemnization of marriage. According to the prosecution, the date of birth of the prosecutrix is 1.9.1997 meaning thereby that she had attained majority on 1.9.2015. In the absence of there being any evidence of kidnapping or compelling the prosecutrix to marry at the time when she was less than 18 years of age and particularly of the evidence of sexual intercourse without her consent before she attained majority, the trial Court was left with no option but to acquit the respondent. Therefore, we do not think that the learned trial Court in acquitting the respondent had committed any patent illegality or perversity so as to call for interference by this Court against judgment of acquittal.

6. Therefore, no case for grant of leave to appeal is made out. The Petition is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge