

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1814 of 2018

State Of Chhattisgarh Through Police Station - Kansabel, District- Jashpur,
Chhattisgarh, District : Jashpur, Chhattisgarh

---- Petitioner

Versus

Rishi Toppo S/o Naanhu Ram Aged About 20 Years R/o Village Kharpani
Sagibhavna, Police Station - Kansabel, District- Jashpur, Chhattisgarh, District :
Jashpur, Chhattisgarh

---- Respondent

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

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

Order On Board

07/01/2019

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 even if the prosecutrix has turned hostile and not supported the case of the prosecution, the prosecution has proved that in her statement given before the Magistrate under Section 164 Cr.P.C., she has stated that she has been subjected to rape. He further submits that as far as age of the prosecutrix is concerned, the prosecution has come out with substantial evidence of reliable nature to prove that the prosecutrix was a minor being less than 18 years of age, therefore, the acquittal is not justified in law.
5. We have heard learned counsel for the State- appellant and also perused the evidence on record.

6. The prosecutrix (PW1) (name is not being disclosed) has not supported the prosecution case at all and has denied even the suggestion that rape was committed on her by the respondent. In that view of the matter, if learned trial Court has granted benefit of doubt to the accused-respondent and acquitted him, we do not find that there is any patent illegality or perversity committed by the learned trial Court in acquitting the respondent by giving him benefit of doubt, on the basis of such statement of the prosecutrix, irrespective of the age consideration.
7. 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