

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1893 of 2018

- The State of Chhattisgarh, Through – Police Station Lailunga, District : Raigarh, Chhattisgarh

---- Petitioner

Versus

- Raju Sidar S/o Ramdhan Aged About 22 Years Sakin Potra Thana Lailunga District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh

---- Respondent

For Petitioner/State : Shri K.K. Singh, G.A.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board by Hon'ble Shri Justice Manindra Mohan Shrivastava

22.01.2019

1. Heard on application for condonation of delay in filing appeal.
2. Upon due consideration, the application is allowed.
3. Delay is condoned.
4. Also, heard on application for grant of leave to appeal.
5. Learned counsel for the State submits that the learned Trial Court has committed illegality in acquitting the respondent even though the evidence of the prosecutrix proves that the respondent/accused had threatened and kidnapped the prosecutrix and thereafter he kept prosecutrix for long time along with him. He would further argue that the age of the prosecutrix is proved by the prosecution as it has, brought on record, the Dakhila Kharij Register which says that the age of the prosecutrix is less than 18 years of age, it is made a case of consent, which is not relevant.
6. We have gone through the entire judgment of conviction and evidence led by the prosecution and from the evidence of the prosecutrix particularly that she has stated in Para 8 and 9, it is borne out that prosecutrix was having love affair and physical relations with the respondent since long time and that she had also become pregnant and was carrying three months pregnancy when report was lodged and all this was done with her consent.

7. So far as the age of the prosecutrix is concerned, the Learned Trial Court has rightly concluded that the prosecution has failed to prove the age of the prosecutrix beyond reasonable doubt, because the father of the prosecutrix has himself clearly stated that the age of the prosecutrix was recorded only on presumptive basis less than the actual age of the prosecutrix. From the evidence of Dr. Poonam Chaudhary (PW-19) also states that the physical appearance of the prosecutrix is well developed. In view of the above, the learned Trial Court has given benefit of doubt to the accused.
8. The finding of the learned Trial Court does not appear to be suffering from any patent illegality, perversity so as to warrant interference by this Court, keeping in view that limited scope of interference against the judgment of acquittal. We, accordingly, do not consider present to be a fit case to grant leave to appeal.
9. Accordingly, CRMP is dismissed at the admission stage itself.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge