

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2103 of 2018

State Of Chhattisgarh Through Police Station Sonhat District Korea
Chhattisgarh., District : Koriya (Baikunthpur), Chhattisgarh

---- Petitioner

Versus

Mohelal S/o Naval Sai Cherwa Aged About 18 Years R/o Village Patthargawan,
Police Station Sonhat District Korea Chhattisgarh., District : Koriya
(Baikunthpur), Chhattisgarh

---- Respondent

For Appellant/State : Smt. Fouzia Mirza, Addl. Advocate General

**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 though the prosecutrix has not supported the case of the prosecution to prove the allegation of she having been kidnapped and subjected to rape by respondent-accused, the father of the prosecutrix namely Bachcha Lal (PW2) has stated that the respondent had kidnapped his daughter and committed rape on her. Learned State counsel would also submit that while giving her statement before the Magistrate under Section 164 Cr.P.C. also, the prosecutrix had supported the prosecution case, therefore, the acquittal of respondent is not justified in law.
5. We have heard learned counsel for the State- appellant and gone through

the evidence on record.

6. The prosecutrix has been subjected to detailed examination and cross-examination both. The prosecutrix has not whispered anything against the respondent and has even denied prosecution suggestion of she having been kidnapped and/or subjected to any sexual intercourse. Therefore, the learned trial Court has acquitted the respondent giving him benefit of doubt. Irrespective of consideration on the age aspect, in view of what has been stated by the prosecutrix before the learned trial Court, 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.
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