

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2376 of 2018

State Of Chhattisgarh Through Police Station Ambikapur, District Surguja
Chhattisgarh. **---- Petitioner**

Versus

Akhilesh Sahu, S/o Gopal Sahu, Aged About 28 Years, R/o Village Kusmi,
District Balrampur Chhattisgarh **--- Respondent**

For Petitioner : Mr. Subhash Yadav, Dy. G.A.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

10/01/2019

Heard on I.A. No.1, application for condonation of delay in filing appeal.

Upon due consideration, the application is allowed.

Delay is condoned.

Heard on application for grant of leave to appeal.

1. Learned State counsel submits that even though the prosecutrix has clearly stated regarding commission of offence of rape on her by respondent-accused, learned trial Court has acquitted him only on the basis that the prosecutrix was having love affair with the accused ignoring that only on that count the accused could not take undue advantage of committing sexual intercourse against wishes and consent of the prosecutrix.

2. We have meticulously gone through the evidence on record and also the contents of the FIR, diary statement as also the written report lodged by the prosecutrix. We find that the prosecutrix had reported that she and the accused had a long standing affair and also physical relations. The FIR, itself, has been lodged about 20 days. Learned Trial Court taking into consideration the aspect of long standing relation and the written report containing statement of physical relations also between the accused and the prosecutrix and that there was delay in the report and there are no injury found, come to the conclusion that prosecution has failed to prove its case beyond reasonable doubt and that it appears to be a case of consent between the parties which later on, turned out to be a dispute

probably because of failure of marriage that it relates to filing of report. The view which has been taken by learned Trial Court cannot be said to be perverse or in ignorance of clinching incriminating evidence. The view which has been taken by learned trial Court can be said to be one of the possible views which could be taken. Considering the limited scope of interference against the judgment of acquittal, we are not inclined to grant leave to appeal.

3. The CRMP is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge

Rekha