

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2530 of 2018

- State Of Chhattisgarh Through The Incharge Police Station Hasoud, District Janjgir -Champa Chhattisgarh

---- Petitioner

Versus

- Sunil Kumar Baghel S/o Tirithram Aged About 23 Years R/o Pisoud Police Station Hasoud District Janjgir Champa Chhattisgarh

---- Respondent

For Petitioner / State : Shri Subhash Yadav, Dy.G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

08/02/2019

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

Upon consideration, the application is allowed. Delay is condoned.

Also heard on prayer for grant of leave to appeal.

Learned State counsel would argue that against a specific and clinching evidence of date of birth of prosecutrix recorded as 7/09/1998 in her school register, learned Trial Court has disbelieved the same upon due consideration of oral evidence on record.

Upon perusal of the impugned judgment and the testimony of the prosecutrix, we find that present is a clear case of consent where the prosecutrix has stated that she had a fight with her parents and then she went to Jammu and resided with her uncle. According to her, she stayed there for one year and entered into marital relation with the respondent/accused and conceived child.

Learned Trial Court has disbelieved the prosecution evidence of date of birth of the prosecutrix being 07/09/1998 taking into consideration that this date of birth has not been proved to be recorded on the basis of any authentic declaration given by the

parents or any other relatives of the prosecutrix and also taking into consideration the oral evidence on record, in any case, even if 07/09/1998 is taken as date of birth of the prosecutrix, she herself has stated that she had gone to Jammu on 27/09/2015 resided there with her uncle for one year. Thus, on 07/09/2016, she attained majority. There is no specific date on which she claimed to have married the respondent. Therefore, in these circumstances, the judgment of learned Trial Court acquitting the respondent does not warrant any interference. The application for grant of leave to appeal is rejected. The present CrMP is accordingly dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge