

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 34 of 2019

- The State of Chhattisgarh, Through Police Station Dipka, District : Korba, Chhattisgarh

---- Petitioner

Versus

1. Shashank Tandan, S/o Dharam Lal Tandon, Aged About 20 Years,
2. Dharam Lal Tandan, S/o Late G.R. Tandon, Aged About 48 Years,
3. Smt. Harabai Tandon, W/o Dharam Lal Tandon Aged About 38 Years,

All are R/o B/68, Pragati Nagar, Dipka Police Station-Dipka, District Korba Chhattisgarh, Permanant R/o Village Salani, Police Station Jaijaipur, District Janjgir Champa - Chhattisgarh

---- Respondents

For Petitioner/State	:	Shri Anand Verma, Dy. G.A.
For Respondent	:	None

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

18.02.2019

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 filed by the State.
5. Learned counsel for the State submits that even though the prosecutrix has not supported the case of the prosecution and has denied being subjected to any rape on her, since, the prosecutrix was minor at the time of incident, and what she has stated, learned trial Court ought to have scrutinized all the material including medical evidence, to record finding regarding commission of rape on the prosecutrix.
6. We have gone through the impugned judgment of conviction and the evidence led by the prosecution, particularly that of the prosecutrix PW-4, what we read from her cross examination, is that she has completely denied having been sexually intercoursed by the accused. It is not a case where she is said to have

been removed from the custody of lawful guardian without their consent. She has stated that she had gone to the house of the accused and came back. With that kind of evidence on record, the learned trial Court opined to acquit the accused by giving benefit of doubt.

7. On the basis of above evidence, the trial Court has recorded to conclusion that the prosecution has failed to prove its case beyond reasonable doubt, it does not appear to be suffering from any patent illegality, perversity so as to warrant interference by this Court, keeping in view the 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.
8. Accordingly, CRMP is dismissed at the admission stage itself.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge