

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 191 of 2019**

- State Of Chhattisgarh Through Its Station House Officer, Police Station Sahaspur Lohara, District Kabirdham Chhattisgarh

---- Petitioner

Versus

- Malikram @ Golu @ Rahul S/o Mohan Satnami Aged About 23 Years R/o Village Vicharpur, Police Station Lalpur, District Mungeli Chhattisgarh

---- Respondent

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

Hon'ble Shri Justice Manindra Mohan Shrivastava**Hon'ble Smt. Justice Rajani Dubey****Order On Board****03/04/2019**

Heard on I.A.No.1/19, application for condonation of delay in filing appeal.

Upon due consideration, the application is allowed.

Delay is condoned.

Also heard on prayer for grant of leave to appeal.

Learned State counsel would argue that even if it is accepted that the prosecutrix was a consenting party and had eloped with the respondent / accused, the clinching evidence led by the prosecution that the prosecutrix was less than 18 years of age would make out a case of commission of offence under Section 363 and 366 of IPC, if not under Section 376 IPC or POCSO Act.

We have carefully gone through the impugned judgment and the evidence on record, particularly with regard to the prosecutrix and her age.

The prosecutrix clearly appears to be a consenting party. She has not made any allegation of sexual intercourse or even regarding outraging her modesty by the respondent. Learned Trial Court, after meticulously examining the records, found that the evidence with regard to age of the prosecutrix is not clinching and conclusive

to hold beyond doubt that the prosecutrix was less than 18 years of age. Therefore, in the aforesaid background, particularly, taking into consideration that the prosecutrix appears to be a consenting party and there is no allegation of sexual intercourse or outraging her modesty, we are not inclined to grant leave to appeal. The application for grant of leave to appeal is therefore rejected.

The present CrMP is accordingly dismissed.

Sd/-

(Manindra Mohan Shrivastava)
Judge

Sd/-

(Rajani Dubey)
Judge