

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 181 of 2019

State Of Chhattisgarh Through The Station House Officer Police Station
Narharpur, District North Bastar, Kanker Chhattisgarh, District : Kanker,
Chhattisgarh

---- Petitioner

Versus

1. Amarchand Kunjam S/o Ramsingh Kunjam Aged About 28 Years R/o Village Dempara, Narharpur, Police Station Narharpur District Kanker Chhattisgarh, District : Kanker, Chhattisgarh
2. Khilesh Yadav S/o Vishambhar Yadav R/o Village Awaspara Narharpur, Police Station Narharpur, District North Bastar, Kanker Chhattisgarh, District : Kanker, Chhattisgarh
3. Satyanarayan Yadav S/o Mayaram Yadav R/o Village Masulpani Schoolpara, Kanker District North Bastar Kanker Chhattisgarh, District : Kanker, Chhattisgarh

--- Respondents

For Appellant/State : Shri Shubhash Yadav, Dy. G.A.

DB : Hon'ble Shri Justice Manindra Mohan Shrivastava

Hon'ble Smt. Justice Rajani Dubey

Order On Board

06/03/2019

Heard on 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. Though learned State counsel strongly urged to submit that the prosecution has come out with the evidence of prosecutrix submitted to rape, after going through the evidence of the prosecutrix PW4, who is major aged about 45 years, we find that learned trial Court was left with no option but to grant of benefit of doubt to the accused because the prosecutrix has not at all supported the case of the prosecution and has completely turned hostile. She has stated that nothing happened to her, no rape was committed and when she had come to the police station in connection with certain works, her signatures were obtained on various documents. Even if she having been declared hostile by the prosecution, nothing could be elicited to even

remotely involve the respondent in the alleged commission of offence.

2. Learned State counsel would argue that a clear statement has been given to the prosecution with the prosecutrix that she has entered into compromise, therefore, she is not supporting the prosecution case, therefore, other evidence of the prosecution including proof of lodging of report may bring home the guilt. We are unable to accept the said submission. When the prosecutrix, herself, is not supporting the prosecution case, conviction of the respondent could not be ordered. It is not a case of minor. The prosecutrix is 45 years of age. No case is made out for grant of leave to appeal.

3. The present CRMP is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Rajani Dubey)
Judge

Rekha