HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU
(THROUGH VIRTUAL MODE)

SLA 87/2018
CONCR 75/2018

State of J&K through SHO P/S R.S.Pura, Jammu ……Applicant(s)

Through :- Mr. Aseem Sawhney, AAG

V/s

Parshotam Lal .....Non-applicant(s)

Through : None

Coram: HON'BLE THE CHIEF JUSTICE (ACTING)
HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER

CONCR 75/2018

1. The applicant-State has filed the instant application seeking condonation of delay in filing the appeal against the judgment of acquittal dated 31.05.2018 passed by the learned trial Court. There is a delay of 68 days in filing the instant appeal.

2 The delay has been properly explained by the applicant-State, as such, the same deserves to be condoned. The application is, accordingly, allowed and the delay of 68 days in filing the appeal is condoned.

3. The application stands disposed of.

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4 Through the medium of instant application, the applicant-State has sought leave to file appeal against the judgment dated 31.05.2018 passed by the

learned 3rd Additional Sessions Judge, Jammu in File No.104/Sessions whereby the non-applicant has been acquitted of the charges for commission of offences under Sections 376/363 RPC.

5. Briefly stated, the facts of the case are that on 19.05.2012, PW-1 Ram Lal (complainant) lodged a report with Police Station, R.S.Pura alleging therein that his minor daughter is missing since 10.03.2012 and that he has come to know that she has been kidnapped by accused Parshotam Lal for having sexual intercourse with her. The police registered FIR No. 75/2012 for offences under Sections 363/376 RPC and started the investigation of the case.

6 After investigation of the case, it was found that the prosecutrix, who happens to be the daughter of the complainant PW-1 Ram Lal, was kidnapped by accused Parshotam Lal and she was also subjected to sexual assault by him. The prosecutrix was recovered from the possession of the accused. Offences under Sections 363/376 RPC were found established against the accused and charge-sheet was laid before the trial Court. The accused denied the charges and, accordingly, the prosecution was directed to lead evidence in support of its case. The prosecution examined as many as 12 out of 16 witnesses cited in the charge-sheet. However, no evidence was led by the defence.

7 The learned Trial Court, after hearing learned counsel for the parties, disbelieved the prosecution case and acquitted the accused of the charges in terms of the impugned judgment.

8 We have heard Mr. Aseem Sawhney, learned AAG and perused the record.

9 It has been contended by Mr. Sawhney that in the instant case, the prosecutrix, who was a minor at the relevant time, has supported the prosecution case in her statement recorded before the Court and her said

statement is corroborated by the medical evidence on record. On this ground, it is urged that it was not open to the learned trial Court to disbelieve the prosecution case.

10 Having regard to the arguments of learned counsel for the applicant-State, a case for grant of leave to file appeal against the impugned judgment is made out. Accordingly, the application is allowed and the applicant is permitted to file appeal against the impugned judgment.

11 Application stands disposed of accordingly.

12. The main appeal is admitted to hearing. Post admission notice be issued to the respondent for his appearance before the Registrar Judicial on 12.03.2021.

13 Registry to diarize the appeal and process it for hearing in due course. Paper-book be also prepared.

HIGH COURT JAMMU & KASHMIR

(Sanjay Dhar) **(Rajesh Bindal)**
Judge **Chief Justice (Acting)**

Jammu
22.12.2020
Sanjeev

Whether order is speaking: Yes
Whether order is reportable:Yes/No

SANJEEV KUMAR UPPAL
2020.12.23 17:15
I attest to the accuracy and
integrity of this document