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

SLA 95/2018
CONCR 84/2018

State of J&K through SHO P/S Ramnagar ……Applicant(s)

Through :- Mr. Aseem Sawhney, AAG

V/s

Amar Chand .....Non-applicant(s)

Through : None

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

ORDER

CONCR 84/2018

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 81 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 81 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 Principal Sessions Judge, Udhampur in File No.93/challan whereby the

non-applicant has been acquitted of the charge for offences under Sections 376/511 RPC.

5. Briefly stated the facts of the case are that on 15.09.2013, the prosecutrix, while she was proceeding from her matrimonial home to parental home, was waylaid by the non-applicant/accused, whereafter she was overpowered by him; the non-applicant/accused laid the prosecutrix on the ground and tried to molest her. On the basis of these allegations, FIR No. 116/2013 for offences under Sections 376/323/511 RPC came to be registered with Police Station, Ramnagar and the police started investigation of the case.

6 After investigation of the case, offences under Sections 376/511/323 RPC were found established against the non-applicant/ accused and charge-sheet was laid before the trial Court. The accused was tried on the charges for commission of aforesaid offences. After conclusion of trial, the learned trial Court, after hearing the parties, came to the conclusion that the prosecution has failed to prove its case against the accused and, accordingly, he was acquitted of the charges in terms of the impugned judgment.

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

8 Learned counsel for the applicant-State has contended that in the instant case, the prosecutrix has supported the case of the prosecution in her statement, but her said statement has been discarded by the learned trial Court on flimsy grounds and, as such, the impugned judgment is not in accordance with the law.

9 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.

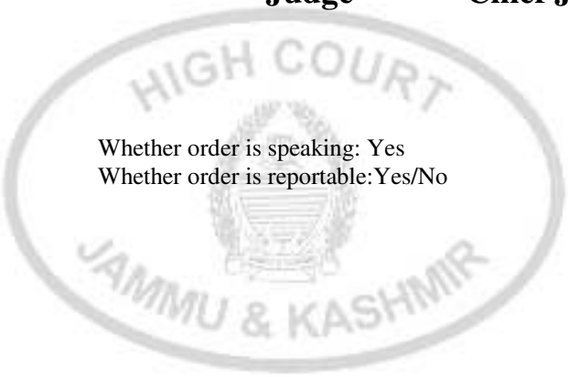
10. Application stands disposed of accordingly.

11. 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.

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

(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 17:14
I attest to the accuracy and
integrity of this document