

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 298 of 2020

- State Of Chhattisgarh Through Police Station- Civil Lines, District- Bilaspur, Chhattisgarh. (Prosecution), District : Bilaspur, Chhattisgarh. --- **Petitioner.**

Versus

- Yashwant Alias Monu Thakur S/o Santosh Singh Aged About 25 Years R/o Village- Masturi, Police Station- Masturi, District- Bilaspur, Chhattisgarh. (Accused No. 2), District : Bilaspur, Chhattisgarh. --- **Respondent.**

For the State :- Mr. Lalit Jangde, Dy. GA.

Hon'ble Shri Justice Manindra Mohan Shrivastava
Hon'ble Smt. Justice Vimla Singh Kapoor,

Order on Board by Justice Manindra Mohan Shrivastava, J.
17.03.2021

Heard on application for condonation of delay as well as prayer for grant of leave to appeal.

Even if, we are inclined to condone the delay we do not find any ground to grant leave to appeal because acquittal of accused/ respondent Yashwant @ Monu Thakur is based on minute scrutiny of the evidence of the prosecutrix (PW-3) and Padmani (PW-4). The learned trial Court in its finding contained in Paragraphs 35 to 39 has taken into consideration that though in the examination-in-chief prosecutrix alleges involvement of accused Yashwant @ Monu, it has been elicited in her cross-examination that in the room there was complete dark and it was not possible to identify anybody and she is involving Yashwant @ Monu because in the morning she was told by Padmani Banjare (PW-4) that Yashwant @ Monu has come in the night but PW-4 also does not support and has been declared hostile. She does not say that she has disclosed the aforesaid fact to prosecutrix (PW-3). The learned trial Court has taken into consideration that in the

night, there were more than one person present and merely because accused Yashwant @ Monu had also stayed in the house overnight, there being other male persons also, the evidence of PW-3 not clear with regard to involvement and PW-4 not supporting the case of the prosecution, involvement of the respondent Yashwant @ Monu is render doubtful. Benefit of doubt accordingly has been given to respondent.

In view of the above consideration of evidence by the learned trial Court in the absence of any patent illegality or perversity pointed out, we do not consider present to be a fit case for grant of leave to appeal. Application is therefore, rejected.

Accordingly, CRMP is **dismissed**.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge

Ajay