

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 701 of 2021

- State Of Chhattisgarh, Through - Station House Officer, Police Station Dharsiwa District Raipur Chhattisgarh., District : Raipur, Chhattisgarh. --- **Petitioner.**

Versus

- Hulas Nirmalkar, S/o Shri Pardeshi Nirmalkar Aged About 21 Years R/o. Durga Chowk, Bhatapara Siltara, Police Station Dharsiwa District Raipur Chhattisgarh., District : Raipur, Chhattisgarh. --- **Respondent.**

For the State :- Mr. Anshuman Shrivastava, PL.

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

Order on Board by Justice Manindra Mohan Shrivastava, J.
20.07.2021

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

2. The application for condonation of delay is disposed off as unnecessary in view of office report that the appeal is within limitation.

3. Learned State counsel would submit that doubt, if any, in the statement of the prosecutrix (PW-1) and witness (PW-2) stands resolved in view of the medical report and the FSL report which proves presence of seminal stain on the clothes of the accused as well as prosecutrix. He would submit that the statement of PW-3 – the father of the prosecutrix explains that some kind of compromise had taken place and that is the reason why the prosecutrix is not firm but the other evidence collected by the prosecution proves the case of the prosecution beyond doubt.

4. After going through the statement of PW-1 and PW-2, we find that the statement of the prosecution witnesses including prosecutrix is highly shaky and the prosecutrix has not remain firm on her statement.

She has gone to the extent of stating that she does not even know the accused and in the cross examination she has clearly stated that nothing was done to her by the accused. Therefore, irrespective of age of the prosecutrix, as the prosecutrix herself has not remain firm and has ended up by stating that she does not even know the accused and he has not done anything, the finding of the learned trial Court that the prosecution case is doubtful and the accused is entitled to benefit of doubt, does not suffer from any patent illegality or perversity. Merely because two views are possible, no interference is called for against judgment of acquittal, in view of settled legal position and the limited scope of interference.

Therefore, we do not find any merits and the application is dismissed.

Accordingly, **CRMP** is dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge

Ajay