

SPLA No. 45 of 2007
WITH
Delay Condonation Application
WITH
GA No. 323 of 2007

Hon'ble Prafulla C. Pant, J.

Heard learned Additional Government Advocate on delay condonation application.

Appeal is filed within 90 days of the impugned judgment, passed by the trial court. The period of limitation provided for appeal against acquittal is 90 days, as such the appeal is not barred by time and delay condonation application is infructuous and accordingly rejected.

Heard on leave to appeal.

I have gone through the impugned judgment and order dated 30.05.2007, passed by learned Sessions Judge, Tehri Garhwal, in Sessions Trial No. 13 of 2005.

Prosecution story in brief is that accused respondent Mahesh kidnapped the girl Rajeshwari student of class 12 of Government Inter College, Okhala on 18.02.2004, with intention to have marriage with her against her will. The trial court did not found the charge proved against accused Mahesh nor was any charge found proved against Km. Bisha or her brother Pappu, who are said to have been involved in the commission of crime. The reasons given by learned trial court while acquitting the accused are that it is not a natural conduct of a person to take the girl in a bus in the presence of known persons in the manner alleged by the prosecution. The trial court, from the evidence on record, finds that the girl was major and had gone with accused Mahesh on her own volition. The finding of the trial court is based on the evidence on record and not based on presumptions and surmises.

Having heard learned counsel for the State and after perusing the entire judgment and order passed by the trial court, this Court does not find no error of law or that of fact committed by the trial court in appreciating the evidence.

Leave to appeal is refused.

Appeal stands dismissed.

(P.C.P., J.)

Dt.31.8.2007
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