

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Special Leave to Appeal No. 42 of 2013
With
Government Appeal No. 13 of 2013
&
Delay Condonation Application No. 325 of 2013

State of Uttarakhand. Applicant

Versus

Ram Pravesh. Respondent

Mr. V.P. Bahuguna, Brief Holder for the State of Uttarakhand / applicant.

JUDGMENT

Coram: Hon'ble Barin Ghosh, C.J.
Hon'ble Servesh Kumar Gupta, J.

BARIN GHOSH, C. J. (Oral)

There has been 82 days' delay in preferring the appeal. An Application for condonation of delay has been filed. To that, an objection has also been filed. We have considered the averments made in the Application as well as in the Objection and, reluctantly, satisfied ourselves with the sufficiency of the reasons, inasmuch as, apart from delay on the part of the Law Secretary in vetting the appeal, there is nothing in the Application suggesting any cogent reason for the delay. The Application for condonation of delay is, accordingly, allowed.

2. Considered the Application for leave to prefer appeal.

3. Kidnapping and rape was the charge against the respondent. It was alleged that the respondent had kidnapped and raped a minor girl. The minor girl appeared in the court and stated that she was a major at the time when she left along with the respondent; it was that they were in love and they wanted to marry each other; but the family was averse to the said marriage. She stated that she had no physical relationship before she got married. She stated that, even after marriage, she was not forced to have

sexual relationship by the respondent. In order to suggest that the girl was minor, prosecution produced before the court many a documents. Some of them suggested that the girl was born on 17th September, 1995 and some suggested that she was born on 3rd February, 1993. Therefore, of the own showing of the prosecution, the girl was more than 16 years' old at the time of the incident. The girl was subjected to medical check-up. The medical report suggested that she was 19 years' old. That piece of evidence was also brought on record by the prosecution. In that background, the charge framed against the respondent has been rejected by the judgment and order, against which, the Application for special leave to prefer appeal has been filed.

4. In the background of the findings as recorded above and those factual findings having not been challenged in the grounds of appeal, no purpose will be served by granting special leave, except to harass the respondent and his wife. The Special Leave Application is, accordingly, dismissed. In the event, the Law Secretary and the advisors of the State are not cautious enough, we will be constrained to impose exemplary costs in all these frivolous appeals henceforth. Inasmuch as the Application for special leave fails, the appeal automatically fails and the same is dismissed.

5. As aforesaid, it will be a failure on our part if we do not add what we are adding hereafter in view of the fact that, as aforesaid, the matter remained pending in the Law Department for a considerable period of time and, accordingly, there had been 82 days' delay in preferring the appeal. However, while the Law Department granted permission to prefer the appeal, it did not indicate any reason why the appeal is required to be preferred. We direct that, henceforth, the Law Department will indicate broadly the reasons why it feel that the judgment under appeal is interferable in appeal. Let a copy of this order be sent to the Law Secretary by the Registry.

(Serves Kumar Gupta, J.)
29.11.2013

(Barin Ghosh, C. J.)
29.11.2013