

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.M.P. No. 373 of 2015

- The State Of Chhattisgarh, Through: District Magistrate, Rajnandgaon, Chhattisgarh

---- Appellant

Versus

- Keshav Verma S/o Tulsi Verma, Aged About 32 Years, R/O Rengakathera, P.S.- Lalbag, District- Rajnandgaon, Chhattisgarh

---- Respondent

For Appellant/State. - Mr. Satish Gupta, Govt. Advocate.

Hon'ble Shri Justice T. P. Sharma
Hon'ble Shri Justice Inder Singh Uboweja

Order On Board
(11/05/2015)

Per T.P.Sharma, J.:-

1. By this petition under Section 378 (3) of the Code of Criminal Procedure, 1973 (for short 'the Code of 1973'), the State has prayed for grant of leave to appeal against the judgment of acquittal dated 17.12.2014 passed by the Additional Sessions Judge (FTC), Rajnandgaon (C.G.) in Special Sessions Trial No.31/2014, whereby the trial Court has acquitted the respondent of the charge of Sections 363, 366 and 376 of the IPC and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012.
2. Present petition for grant of leave to appeal has been filed after 48 days of its limitation.
3. Heard on I.A.No.01/2015, for condonation of delay in filing the petition for leave to appeal and also on grant of leave to appeal.
4. We have perused the copy of charge-sheet and deposition of witnesses including copy of deposition of prosecutrix (PW/4).
5. As per evidence of prosecutrix (PW/4) especially para 12, her age was 19 years at the time of incident; she herself was consenting party; she herself had accompanied the respondent and consented for intercourse. School certificate (Ex.P/5) has been proved by Sanjay Kumar Verma (PW/3) and

Netu Kumar Sahu (PW/11)-Incharge, Head Master, who has deposed that entry was recorded by the Indu Prabha, Head Teacher.

6. Evidence adduced on behalf of prosecution does not reflect the fact that what was the age of prosecutrix and what was the basis for recording the date of birth as 12.07.1995. In absence of such proof and evidence, in the light of evidence of prosecutrix (PW/4), by acquitting the respondent, the trial Court has not committed any illegality. This is not a case in which only finding convicting the respondent was possible.
7. We do not find any substance or merit for grant of leave to appeal. We are also not inclined to condone the delay.
8. Consequently, I.A.No.01/2015 is liable to be dismissed and is hereby dismissed. Consequently thereto, the petition for grant of leave to appeal also stands dismissed.

JUDGE

JUDGE

Vijay