

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No. 96 of 2015**

Naresh Kumar son of Pradhan Sahu, aged about 42 years, Resident of Bharnathat Police Station Pinkapar, District Balod Chhattisgarh.

---- Appellant**Versus**

1. State of Chhattisgarh, through the Station House Officer, Police Station Devri, District Balod, Chhattisgarh.
2. Sandeep Kumar @ Disam son of Parasram, aged about 26 years, resident of village Bharnabhat, Police Chowki Pinkapar, Police Station Doundi, District Balod, Chhattisgarh.
3. Makhanlal Sahu son of Rajauram, aged about 47 years, resident of Nalpani, Police Station Doundilohara, District Balod, Chhattisgarh

---- Respondents

For Appellant	:	Shri K.K.Singh, Advocate.
For Respondent/State	:	Smt. Smita Ghai, Panel Lawyer.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri P. Sam Koshy, J.

Judgment on Board**Per Navin Sinha, Chief Justice****09/09/2015**

1. The Appellant, who is the father of 16 year old boy questions the acquittal of the Respondents No. 2 and 3 of the charges under Section 370 (4) of the Indian Penal Code (hereinafter called 'the IPC'), Section 23 and 26 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (hereinafter called the 'Juvenile Act') and Section 14 of the Child Labour (Prohibition and Regulation) Act, 1986 (hereinafter called 'the Child Labour Act').
2. Learned Counsel for the Appellant submits that from the evidence it was manifest that his son, a minor, was lured by Respondents No. 2 and 3 by practicing fraud and deception and transported to the employer at Tamilnadu where he was made to work in the under-construction building of Ramkrishna

College. It constitutes an offence under Section 370(4) and (6) IPC. The Trial Court failed to properly appreciate the evidence that the Appellant had refused to allow his son to go for employment with the Respondents. While he was away from home, the Respondents behind his back clandestinely lured his minor son away. Acquittal was therefore unjustified. The next submission was that the son of the Appellant was taken on a promise for higher payments but lesser payment was being made to him at the under-construction college and the middleman was not keeping his promise to pay as agreed.

3. We have heard Learned Counsel for the State also.

4. The Trial Judge has arrived at the conclusion that neither Section 370 IPC nor Sections 23 and 26 of the Juvenile Act or Section 14 of the Child Labour Act had any application in the facts of the case.

5. The evidence is that son of the Appellant went away with Respondents on 23.11.2013 to Coimbatore from where he went to village Toilur, Tamilnadu for working in an under-construction building of Ramkrishna College. The Respondents themselves were working there with him. The Appellant was well aware of all these facts. His son was also sending him money. The entire controversy cropped up when he suffered some injury to his teeth while working and came back. Despite promise for treatment, Respondents No. 2 and 3 did not help.

6. Section 370 IPC prohibits trafficking of persons. It provides that who ever transports, harbours, transfers or receives a person for exploitation by practicing fraud or deception or by inducement gains control over the person, commits an offence of trafficking. Section 23 of the Juvenile Act likewise provides that where cruelty is practiced against a child or it is assaulted, abandoned, exposed or willfully neglected so as to cause mental or physical suffering would be punished. Likewise, Section 26 of the Juvenile Act provides that whoever procures a juvenile for the purpose of any hazardous

employment was liable for punishment. Similarly, Section 14 of the Child Labour Act provides that whoever employs or permits any child to work in contravention of the Act was punishable.

7. It is evident from the evidence that has come on record that the son of the Appellant left home behind his back while the Appellant was away from home and against his wishes. The son was also remitting money and the Appellant was fully aware of his whereabouts for over seven months before lodging the report. There is no evidence of any fraud or deception practiced by the Respondents No. 2 and 3 who themselves were also employed in the under-construction college. The Police was in haste to lodge the prosecution and did not even consider implicating the authorities of the under-construction college for whom the child was working in contravention of the laws as alleged by the prosecution. On the own showing of the Appellant, the acquittal appeal has been filed more as a coercive measure for the lesser payment that may have been made rather than violation of any substantive laws.

8. We find no error in the conclusion of the Trial Court that none of the provisions of law as discussed above apply in the present case against the Respondents who were themselves employed in the construction activity and that the alleged victim boy had gone voluntarily with them for greener pastures.

9. The acquittal appeal is dismissed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE