

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 773 of 2015**

The State of Chhattisgarh, Through P.S. Raghunathnagar, District Balrampur,
Chhattisgarh

---- Appellant**Versus**

Suresh Badi S/o Dinanath Badi, aged about 25 years, Business-Agriculture, R/o
village Karimati, O.P. Balangi, P.S. Raghunathnagar, District Balrampur,
Chhattisgarh.

---- Respondent

For Appellant : Shri B. Gopa Kumar, Deputy Advocate General.

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

Order on Board**Per Navin Sinha, Chief Justice****02/09/2015**

1. The present application has been filed for leave to appeal against acquittal under Sections 363, 366 and 376 IPC dated 25.11.2014 ordered by the Special Judge, Surguja, Ambikapur in Special Sessions Case No. 69 of 2012.
2. Learned Counsel for the State submits that the victim was a minor below 18 years of age. The Trial Court therefore was not justified in dropping the charge under Section 376 IPC even if Section 363 and 366 IPC were not proved to the satisfaction of the Court. The evidence of the prosecutrix was sufficient for the purpose.
3. We have considered the submissions.
4. It is not an invariable rule that under all circumstances evidence of the prosecutrix can be sufficient by itself for conviction under Section 376 IPC.

Undoubtedly, more weightage has to be given to it but it has to be appreciated in context of the surrounding evidence that may be available. In the absence of any specific proof of age of the prosecutrix, the Trial Court only concluded that she was below 18 years of age and applied the principle in AIR 1965 SC 942 (S. Varadrajan v. State of Madras).

5. We have also examined the statement of the prosecutrix in cross-examination at paragraph 25 of the judgment.

6. In the entirety of the matter, we are not satisfied that the acquittal calls for any interference. Delay of 121 days in filing the application is condoned. The application for leave to appeal is dismissed.

Sd/-

(Navin Sinha)
CHIEF JUSTICE

Sd/-

(P. Sam Koshy)
JUDGE