

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr.M.P. NO. 853 OF 2015

State of Chhattisgarh, through Station House Officer, Police Station Saja, District Bemetara (C.G.)

... Appellant

Versus

1. Akshay Chandrakar @ Raja, S/o Ramu Chandrakar, aged about 23 years, R/o Village Beerkaji, Police Station Phoolpur, District Allahabad (U.P.)

2. Ajay Chandrakar, S/o Bhagwat Chandrakar, aged about 23 years, R/o Village Pachbhaiya, Police Station Dadhi, District Bemetara (C.G.)

... Respondents

For Appellant : Mr. B. Gopa Kumar, Dy. Advocate General.

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

Order on Board

Per NAVIN SINHA, C.J.

05/10/2015

1. The present application has been filed for leave to appeal against the order dated 22.6.2015 passed by the Additional Sessions Judge, Bemetara, in Sessions Trial No. 38 of 2014, acquitting the Respondents of the charges under Sections 363/34, 366(A)/34, 376, 506 (Part II) IPC read with Section 4 of the Prevention of Children from Sexual Offences Act.

2. Learned Counsel for the State submits that the Trial Judge erred in granting acquittal on basis of consensual physical relationship when the victim was below 18 years of age. Consent was an irrelevant consideration. The mark-sheet and admission register of the Prosecutrix in Class 8 establish that she was below 18 years of age.

3. We have considered the submissions on behalf of the Appellant.
4. The Trial Judge in paragraph 30 has adequately discussed that Kotwari register and birth certificate had not been produced. While the prosecution relied on the age as recorded at the time of admission in Class 8, the Prosecutrix deposed that she was admitted in the school in Class 7. The father of the Prosecutrix also could not place any material on basis of which he had disclosed the age of the Prosecutrix at the time of admission. In the circumstances, X-ray had concluded the victim to be approximately 18 to 19 years of age. In these circumstances, the Trial Judge in paragraph 15 dealt with in detail for the manner in which the Prosecutrix left home herself voluntarily to accompany the Respondents establishing a consensual physical relationship.
5. We therefore find no reason to interfere with the order of acquittal.
6. The application for leave to appeal is dismissed.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge