

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRIMINAL MISC. PETITION NO. 269 OF 2016

State of Chhattisgarh, through District Magistrate, Rajnandgaon (C.G.)

... Applicant

Versus

Akash Victor, S/o Ajay Kumar Victor, aged about 24 years, R/o Panchseel Nagar, Charoda, P.S. Bhilai 3, District Durg (C.G.)

... Respondent

For Applicant-State : Mr. B. Gopa Kumar, Dy. Advocate General.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05/07/2016

1. The present application has been filed for grant of leave to appeal assailing acquittal of the Respondent dated 3.10.2015 from the charge under Section 363 IPC by the Judicial Magistrate First Class, Rajnandgaon in C.I.S. No. 2528 of 2014.
2. Brief facts of the case are that a missing report was lodged by the father of the victim at Police Station Kotwali, Rajnandgaon alleging that the Respondent is said to have abducted the minor Ku. Kinjal (PW-1) from the lawful guardianship and had taken her to different places on 22.2.2014 in the afternoon at around 1:20 pm. Subsequently, the Respondent was made an accused in the said case and a charge-sheet was filed against him before the Court below for having committed an offence under Section 363 IPC. The matter was put to trial and the Court below vide impugned judgment dated 3.10.2015 found that the prosecution has not been able to make out a case against the Respondent of having committed an offence under Section 363 IPC and thus acquitted the Respondent of the said charge.

3. It is this judgment dated 3.10.2015 which has been assailed by the Applicant-State through the present Criminal Misc. Petition seeking for leave to appeal.

4. Learned Counsel for the Applicant-State submits that the Court below ought to have considered the age of the victim, PW-1, where admittedly she was a minor and the Court below did not appreciate the evidence in its proper perspective and in a mechanical manner passed the impugned judgment of acquittal in favour of the Respondent which needs to be set aside/quashed. He has not raised any other ground while assailing the impugned judgment.

5. Having considered the contentions put forth by the learned Counsel for the State and on perusal of the record, the admitted fact which is not in dispute is the fact that the victim, PW-1, while deposing before the Court below has not supported the case of the prosecution in any manner. The prosecution also has not been able to extract anything from the cross-examination of the victim so far as the alleged overt-act committed by the Respondent-accused so as to make out a case against him for offence under Section 363 IPC. On the contrary, a perusal of the deposition of the victim, PW-1, would show that there is no iota of allegation or even a reference in respect of any act committed by the Respondent-accused by which it could remotely suggest that there was an element of an act of kidnapping committed by the Respondent-accused.

6. Further, the deposition of the victim, PW-1, would show that she has on the contrary made a statement that on the said date i.e., on 22.2.2014 she had voluntarily left her house and had gone to a different place and ultimately landed in the house of the Respondent-accused who was not there, and it was his mother who had ensured the safe return of the victim

to her parental house, without there being any allegation whatsoever made against the Respondent-accused.

7. In the absence of any allegation made by the victim nor there being any suggestion put forth in this regard by the prosecution to the victim in her cross-examination by which it could be said that there was some overt-act played by the Respondent-accused in the commission of the alleged offence on 22.2.2014, this Court is of the opinion that there is no illegality or infirmity committed by the Court below while passing the impugned judgment of acquittal of the Respondent calling for any interference by this Court.

8. The present Criminal Misc. Petition seeking leave to appeal thus being devoid of merits is dismissed.

Sd/-
(P. Sam Koshy)
Judge