

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 711 of 2016

- State Of Chhattisgarh Through Station House Officer, Police Station Lalbag, District Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

- Krishna Chaurasia @ Rakesh S/o Kailashchand Chaurasia Aged About 24 Years R/o Sonarpara, Digvijay College Road, Police Station Kotwali, District Rajnandgaon Chhattisgarh.

----- Respondent

For Applicant/State

Mr. Ashish Shukla, Government Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

05.12.2016

1. The present CRMP has been preferred by the Petitioner- State seeking for leave to appeal against the impugned judgment dated 18.03.2016 passed by Additional Sessions Judge and Special Judge (POCSO Act, 2012), Fast Track Court, Rajnandgaon in Sessions Trial No. 07/2015.
2. Vide the impugned order the Court below has in a case in which the Respondent was prosecuted for the offence punishable under Section 354(A)(1)(ii) and 354(D)(i) read with Section 326(B) of the IPC has acquitted him from the said charges levelled against him.
3. The case of the prosecution is that on 17.09.2014 at around 07:00 p,m. the victim PW-1, Pooja was traveling by her scooter Activa and was going towards her farm house at Indamara and when she reached

before the Abis factory at G.E. Road NH-6 the respondent accused is said to have come from behind on his motor cycle and tried to outrage her modesty and also threw a bottle of acid which he was having in his hand upon the victim PW-1. On account of said alleged acid assault the victim PW-1 said to have sustained injuries on her body. She immediately went to inform her mother and father and also to the Control Room and on the same evening at around 09:30 she lodged FIR at Police Station initially which was registered as Crime No. 0/2014 under Section 324 of the IPC and later on the case was registered as Crime No. 318/2014 at the Police Station – Lalbag. Subsequently, charge sheet was filed and the matter was put to trial before the Court of Additional Sessions Judge (Fast Track Court), Rajnandgaon where the case was registered as Sessions Case No. 07/2015. In all the prosecution examined 11 witnesses and no witness in defence was examined. After the trial was concluded the Court below vide the impugned judgment dated 18.03.2016 acquitted the Respondent accused from the charges leveled against him. It is this judgment which has been sought to challenge by the Applicant – State before this Court with a prayer for grant of leave to appeal.

4. Learned State Counsel submits that the Court below has not properly appreciated the evidence of the victim PW-1 and has not either believed her statement and in a mechanical manner have issued the order of acquittal to the Respondent accused.
5. He further submits that the Court below has not properly appreciated the evidence of the Doctor also who had conducted M.L.C. upon the victim and disbelieving the Doctor has granted benefit of doubt to the

Respondent accused acquitting him from the charges.

6. However on plain perusal of the impugned order and the record enclosed along with the present Petition what clearly reflects is the fact that there was a lot of contradiction and omission in the initial statement of the victim herself i.e. PW-1 Pooja when compared with the contentions that the victim has raised in her deposition, and many facts are even missing from the deposition of the other prosecution witnesses. From the perusal of the impugned order what clearly reflects is that the complainant in her deposition before the Court has stated that she had sustained injury on her left leg at the time of the acid attack. This statement does not get corroborated from the medical evidence of the Doctor who examined the victim i.e. Dr. Ekta Denial and has also not been corroborated from the M.L.C. Report Ex. P/8 wherein the Doctor has specifically stated that he did not find any injury on her leg nor did any such averment of injury on her leg made at the time of her medical examination. Further the prosecution has also not been able to collect clothes of the victim which according to the Court below in case of acid assault her clothes which she was wearing also would have got damaged and it could have been a relevant piece of evidence. This creates an element of doubt in the mind of Court. Likewise, no seizure of the scooter Activa has been made on which she was traveling on which also if acid had fallen there would have been marks of burn that also could have been a corroborative factor, non seizure of the Activa Scooter again gives rise to a great element of doubt.
7. Further also what is contradictory is the fact that the parents of the victim PW-10, Arti Shrivastava mother and PW-11, Brijlal Shrivastava father

have not supported the case of the prosecution which all the more weakens the case of the prosecution. In addition to the aforesaid doubts which have been created during the course of evidence, it has also come on record that there was old enmity between the Prosecutrix and the Respondent herein. On an earlier occasion the Respondent had lodged an FIR against the Prosecutrix on account of some theft of puppy from the house of the Respondent accused. Considering all these factors into consideration if the Court below has given benefit of doubt to the Respondent accused it can not be said that the Court below has committed any error of law or on fact while acquitting the Respondent. In the opinion of this Court the Court below has not committed any infirmity or illegality in reaching to the conclusion of acquitting the Respondent accused from the said charges levelled against him.

8. This Court is of the opinion that no strong case has been made out for granting leave to appeal against the impugned judgment, accordingly the present Cr.M.P. stands rejected.

Sd/-

(P. Sam Koshy)
JUDGE