

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 1100 of 2016**

State of Chhattisgarh through the Incharge, Police Station Lormi, District-Mungeli, CG

---- **Petitioner**

Versus

Ashok Pathari S/o Buddhu Pradhan (Pathari), aged about 22 years, R/o village Nawagaon, Dayali, Police Station Lormi, District-Mungeli, CG

---- **Respondent**

For Petitioner/State : Shri Ashish Shukla, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy

Order On Board

02/12/2016

The present CrMP has been filed seeking for grant of leave to appeal against the judgment of acquittal dated 30.04.2016 passed by the Special Additional Sessions Judge, Mungeli in Special Sessions Trial No. 28/2015 whereby the Court below has acquitted the respondent from the charges under Section 354 of IPC and Section 8 of Protection of Children from Sexual Offences Act, 2012.

2. As per the complaint made by PW-1 the victim, on 24.04.2014 at around 11 a.m. when she had gone to answer the nature's call, the respondent is said to have caught hold of her and thrown on the ground by saying that he would ravish her. It is alleged that when the victim raised an alarm, her father Harischandra along with one Golu reached the spot and the respondent is said to have fled away from the scene. An FIR was lodged at Police Station Lormi in Crime No. 127/2014 Ex.P-3 for the offence under Section 354 of IPC and Section 8 of Protection of Children from Sexual Offences Act, 2012. After investigation charge sheet was filed and the matter was put to trial before the Special Additional Sessions Judge,

Mungeli where the case was registered as Special S.T. No.28/2015.

3. The prosecution in all examined 9 witnesses and one witness was examined on behalf of the defence. After completion of evidence, the Court below vide impugned judgment dated 30.04.2016 reached to the conclusion that the prosecution has not been able to prove the case against the respondent beyond reasonable doubt and therefore acquitted the respondent from the charges levelled against him.

4. State counsel assailing the impugned judgment took the Court through the statement of PW-1 the victim and drew the attention of the Court to the cross-examination wherein she has narrated the entire facts in respect of the alleged act committed by the respondent. According to the State counsel, there is no reason why the said deposition of the victim should be disbelieved. He submits that the Court below ought to have given more weightage to the statement of the victim and should have convicted the accused respondent. Thus, prayed for grant of leave to appeal against the impugned acquittal order.

5. However, a perusal of the impugned judgment and the record what clearly reflects is the fact that the victim PW-1 in her cross-examination has admitted the fact that she had not gone to the Police Station for lodging the report whereas the report was made by her uncle (Chacha). She has also admitted the fact that the report has been falsely lodged by her uncle on account of the strained relationship that he had with the father of the respondent in respect of some financial transactions. PW-1 in her cross-examination has also admitted the strained relationship between the two family and the fact that it was because of the strained relationship the false complaint was lodged. In addition, father of the victim PW-2 in his evidence has also admitted the fact that no such incident had occurred so far as the outraging of modesty of her daughter is concerned and it was

because of the rivalry that his younger brother had with the father of the respondent the false report was lodged against the respondent.

6. In the given factual background of the case where there is a total denial on the part of the victim as well as her father of any offence having committed and that a false complaint was made which has been elucidated by the prosecution witnesses themselves in their cross-examination, this Court is of the opinion that the Court below has rightly drawn an inference that the entire case of the prosecution is based upon false allegation made with an intention of harassing the accused family.

7. In view of the same, this Court does not find any strong case made out for grant of leave to appeal against the impugned judgment of acquittal. Accordingly, the present CrMP being devoid of merit stands dismissed.

Sd/-
(P. Sam Koshy)
JUDGE