

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 105 of 2016

- State Of Chhattisgarh Through Police Station Bhilai Nagar, District Durg Chhattisgarh.

---- Petitioner

Versus

- Pravin Kumar Yadav S/o Kanhaiyalal Yadav Aged About 20 Years R/o House Of Subhash Machhli, Maharana Pratap Bhawan Near Bhais Khatal, Jhopdi Sector 7 Bhilai Nagar, District Durg Chhattisgarh.

---- Respondent

For Petitioner/State

Mr. Ramakant Mishra, Dy. A.G.

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Chandra Bhushan Bajpai

Order On Board

8/7/2016

1. Heard.
2. This is an application under Section 378(3) seeking leave to appeal against the judgment of acquittal passed by the Special Judge (Atrocities), Durg, acquitting the accused for commission of offence under Sections 363, 366, 376(2)(j) of the Indian Penal Code, Section 6 of the Prevention of Children from Sexual Offences Act, 2012 and Section 3(1) (b) (2) & 3(2) (v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

3. The prosecutrix was not traceable from 23.04.2014, for which a report of missing person was lodged. On 27.04.2014, a FIR was lodged to the effect that the accused was intimate with the prosecutrix, therefore, he might have enticed her. The prosecutrix was later on recovered from the possession of the accused on 06.06.2014.
4. Although in the case diary statement, the prosecutrix made allegations against the accused that he persuaded and induced her to move with him, however, in her 161 Cr.P.C. statement, she stated that she had gone with the accused on her own will. The prosecutrix has turned hostile and has not at all supported the prosecution even during cross-examination. Similarly, her parents Indrabhan Nagwanshi (PW-5) and Bhuneshwar (PW-6) have turned hostile, although during cross-examination they have somewhat supported the prosecution.
5. In view of clear statement of the prosecutrix that she proceeded to move along with the accused on her own will and she was never subjected to sexual intercourse by the accused, the present is a case where the prosecution has failed to prove its case beyond reasonable doubt.
6. It is the settled law that when two views are possible in the case and the trial Court has taken one of the views, the judgment of acquittal should not be converted into a judgment of conviction. (Please see : **State of M.P. Vs. Bachhudass alias Balram and others**, (2007) 9 SCC 135).

7. For the foregoing, this Court does not find any substance in the CRMP seeking leave to appeal.

8. Accordingly, the CRMP is dismissed.

Sd/-

Sd/-

Judge

Judge

(Prashant Kumar Mishra)

(Chandra Bhushan Bajpai)

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