

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**CRMP No. 972 of 2016**

- Mona Chandravanshi D/o Antram Aged About 17 Years Allellant Is Minor Through Her Legal Guardian Father, Antram R/o Village Lakhanpur, Police Station Pipariya, District Kabirdham Chhattisgarh

**---- Petitioner**

**Versus**

1. State Of Chhattisgarh Through- Pipariya District- Kabirdham, Chhattisgarh.
2. Nirmal Kumar Banjare @ Chaman @ Golu S/o Lalaram Banjare, Aged About 25 Years R/o Kanha Bhaira, P.S. Pipariya, District Kabirdham, Chhattisgarh.

**---- Respondent**

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| For Petitioner       | Mr. AK Yadav, Advocate                |
| For Respondent/State | Mr. Vivek Sharma, Government Advocate |

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

**Order On Board**

**8/9/2016**

1. This application seeking leave to appeal has been preferred against the judgment of acquittal passed by the Special Judge, Protection of Children from Sexual Offences Act, 2012 (in short "the POSCO Act"), FTC, Kabirdham (CG), acquitting the respondent/accused from the charges under Sections 363, 366, 376 of IPC and Section 6 of the POSCO Act.
2. The trial Court has acquitted the accused person mainly on the ground that the prosecution has failed to prove that the

prosecutrix was minor on the date of the incident i.e. 25.10.2015.

3. Bare perusal of the judgment would itself indicate that in the radiological examination, the approximate age of the prosecutrix was found to be 16 years. There are documents in the nature of *Dakhil Kharij* register Ex.P/16 and the mark-sheet of the Middle School examination (Class VIII mark-sheet), wherein, her date of birth is mentioned as 07.04.1999. There is thus sufficient evidence to conclude that she was less than 16 years of age on the date of the incident.
4. In our considered opinion, the application for leave to appeal deserves to be allowed.
5. Accordingly, the CRMP is allowed.
6. Let regular acquittal appeal be registered and notice thereof be sent to the respondents as per rules.
7. It is made clear that if the accused/respondent No.2 fails to appear in person or through his lawyer before this Court, this Court may take coercive steps to secure his presence/appearance in accordance with the provisions contained in Section 390 of Cr.P.C.

Sd/-

Judge

**(Prashant Kumar Mishra)**

Sd/-

Judge

**(Chandra Bhushan Bajpai)**

