

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA  
AT CHANDIGARH

CRM-A-1273-MA-2015 (O&M)  
Date of decision: September 20, 2016.

State of Haryana

... **Petitioner**

v.

Atish @ Des Raj

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri Karan Sharma, Assistant Advocate General, Haryana.

Shri Ram Kumar Saini, Advocate for the respondent.

**A.B. Chaudhari**, J. (Oral):

Heard. Delay condoned.

The appeal is taken up for final disposal.

Learned counsel for the State contended that the judgment and order of acquittal recorded by the learned trial Judge acquitting the respondent for the offences under Sections 363 & 366 IPC is illegal. He submitted that the finding regarding date of birth about the minority of the girl is perverse and therefore, the order of acquittal deserves to be reversed.

Per contra, learned counsel for the respondent submitted that the girl-prosecutrix herself stated on oath in evidence that her date of birth was of the year 1996 meaning thereby that she was above 18 years. Apart from that, the respondent is residing with the said girl as her husband and has a child also and he runs a grocery shop. He therefore prayed for dismissal of the appeal against acquittal.

Having heard learned counsel for the rival parties, I have also perused the reasons recorded by the learned trial Judge for recording the order of acquittal. The trial judge has categorically recorded a finding of fact disbelieving the date of birth as 2.4.1998 brought by the prosecution. I find that the finding is not perverse and then the next evidence is oral evidence of the girl who herself stated that she was above 18 years of age. There is no documentary evidence on record to believe that she was minor. Admittedly, her oral evidence shows that her date of birth was 3.4.1996, so also the Aadhar Card Ex.D5 showing the same date of birth. In the light of the above background, there is no reason for interfering with the finding recorded by the trial judge accordingly recording acquittal.

In the result, I find no merit in the appeal. The appeal is therefore dismissed.

**[ A.B. Chaudhari ]**  
**Judge**

September 20, 2016.  
*kadyan*

Whether speaking/reasoned  
Whether reportable

Yes/No  
Yes/No