

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CR.R. No. 234 of 2017

1. Mukhsingh Sarthi, S/o. Shri Dhansai Sarthi, Aged About 45 Years, R/o. Village -Deurmar, Police Station -Chhal, District- Raigarh, Chhattisgarh

----Applicant

Versus

1. State of Chhattisgarh, Through : S.H.O. of the Police Station- Chhal, District -Raigarh, Chhattisgarh.

---- Respondent

For Petitioner : Mr. Abhisek Saraf, Advocate

For Respondent/State : Mr. Dilman Rati Minz, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

28/02/2017

1. Challenge in this petition is to the order dated 07.02.2017, passed in S.T. No.20/2016, by the learned Additional Sessions Judge (F.T.C.), Raigarh, District – Raigarh, whereby an application preferred by the applicant to constitute medical board to prove the physical condition of the applicant was dismissed.
2. Perusal of the order would show that during the course of examination of the accused while the counsel was changed and Legal Aid counsel was appointed it was disclosed that the applicant is physically incapable to perform sexual act and the trial is under Section 376 of I.P.C. along with Section 4 & 6 of POCSO Act.

3. After reading the order, I do not find any jurisdictional error to interfere with such order. However, the applicant shall be at liberty to call the doctor on his behalf to adduce the evidence and doctor may examine the applicant about the physical capacity to advance the defence if any to the petitioner so as to advance the cause of justice on merits.
4. With such observation, the petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge

Balram