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**HIGH COURT OF CHHATTISGARH, BILASPUR****CRMP No. 196 of 2018**

- State Of Chhattisgarh Through Police Station A. J. K. Ambikapur District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

**---- Petitioner****Versus**

1. Anuj Kumar S/o Shri Naihar Sai Panika, Aged About 20 Years R/o Village Asola, Police Ambikapur District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh
2. Naihar Sai S/o Shri Shambhu Das Panika Aged About 38 Years R/o Village Asola, Police Ambikapur District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh
3. Kamal Das S/o Shri Mahant Das Aged About 33 Years R/o Village Asola, Police Ambikapur District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

**---- Respondents**


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For Petitioner : Shri Vaibhav A Goverdhan, Panel Lawyer

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**Hon'ble Shri Pritinker Diwaker and**  
**Hon'ble Shri Sanjay Agrawal, J.J.**

**Order On Board****10.04.2018****Per Pritinker Diwaker, J.**

1. Present petition, seeking leave to appeal, has been filed under Section 378 (3) of the Cr.P.C. to assail the impugned judgment and order dated 30.08.2017 passed by Special Judge under Atrocities Act, Surguja (Ambikapur) in Special Sessions Case No. 03/2017 whereby the Court below has acquitted respondent No.1 of charges under Sections 450, 417, 376(2) (n), 294, 506 IPC, under section 5(l)/6 of the Protection of Children from Sexual Offence Act, 2012 (hereinafter referred to as the POCSO) and under Section 3 (2) (v) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (for short 'the Atrocities Act) whereas the Court below

has acquitted respondents No. 2 & 3 of the charges under Sections 294, 506 IPC and 3(1)(r) and 3(1)(s) of the Atrocities Act.

2. As per prosecution case, on 14.10.2016, F.I.R. (Ex.P.5) was lodged by the prosecutrix (P.W.6), aged about 20 years, alleging in its that about one year back, on the pretext of marriage, respondent No.1 committed rape upon her against her consent. She has alleged that respondent No.1 had physical relation with her resulting her pregnancy in March, 2016.

3. The allegation against the respondents is that they have threatened her and ousted her from the house of respondent No.1.

4. So as to hold respondents guilty, the prosecution has examined as many as 10 witnesses. Statements of respondents were recorded under Section 313 Cr.P.C., in which, they denied all the circumstances appearing against them and pleaded innocence and false implication.

5. By the impugned judgment, the trial Court, after considering the evidence adduced by the prosecution, has acquitted the respondents.

6. We have heard learned counsel for the State and perused the record carefully.

7. There is no dispute in respect of the age of the prosecutrix., which is 20 years. She, in her Court statement, has deposed that she was having affair with respondent No.1 and that she had physical relation with him after her consent. She has further stated that in December, 2016, she had also delivered a child. Considering the statement of the prosecutrix she was declared hostile.

8. The Court below, after considering the statement of the prosecutrix and all other material available on record, has come to the conclusion that

the prosecution story cannot be relied upon and is not believable and to be discarded so far as allegations of rape, threatening and that of ousting her from the house of respondent No.1 levelled by the prosecutrix, and therefore, the respondents are entitled to acquittal.

9. After considering the material available on record as well as the elaborate judgment impugned passed by the Court below and being very much conscious of the existing legal position that in an appeal against acquittal if two views are possible on the basis of the evidence led by the prosecution and the trial Court taking one view favoured the accused, reversion of the findings of acquittal by the appellate Court taking the other possible view into consideration, is not permissible in law, this Court is of the opinion that the judgment impugned acquitting the respondents/accused of the offence under Sections 450, 317, 376(2)(n), 294, 506 IPC, 5(l)/6 of POCSO Act and 3(2)(v), 3(1)(r) and 3(1)(s) of the Atrocities Act is just and proper and does not call for any interference. Accordingly, the leave as sought for by the petitioner for registration of appeal against the judgment of acquittal is hereby refused.

Petition is accordingly dismissed at the admission stage.

Sd/-  
(**Pritinker Diwaker**)  
Judge

Sd/-  
(**Sanjay Agrawal**)  
Judge