

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 242 of 2018**

State of Chhattisgarh, Thourgh: Station House Officer, Police Station
Shivrinarayan, District-Janjgir-Champa (C.G.)

---- **Petitioner**

Versus

Narendra Kumar Kenwat, S/o Saharta Kenwat, Aged About 20
Years, R/o Singhul, Police Station Shivrinarayan, District-Janjgir-
Champa (C.G.)

---- **Respondent**

For State/ Petitioner : Mr. Sanjeev Pandey, G.A.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

26/09/2018

1. Heard on I.A. No. 01/2018, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC 132**, the delay of 15 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 28.09.2017 passed by Special Session Judge (POCSO Act), District-Janjgir-Champa (C.G.) in Special Criminal Case No. 14/2017, wherein the said court acquitted the respondent for commission of offence under Section 354 (d) of IPC & Section 12 of Protection of Children from Sexual Offences Act, 2012 (for short "the POCSO Act, 2012").

5. In the present case, one Pratap Das (PW-2) who is Assistant Teacher Panchayat was examined to establish date of birth of the prosecutrix, but he did not depose that entry in the school register is made by him. He admitted in his cross-examination that it is not known to him as to on what basis the entry of date of birth was made in the school register. No birth certificate was produced before the trial court and no radiological examination was done to establish age of the prosecutrix. Entry in the school register is also not proved by evidence of Pratap Das (PW-2), therefore, it is not proved that on the date of offence, the prosecutrix was below 18 years. Prosecutrix (PW-1) has not supported version of any witness. It has also not proved by version of any witness that stalking was committed by the respondent against her. Sahdev Kumar (PW-3) is father of the prosecutrix, who has also not supported version of the prosecution.
6. The basic ingredient for commission of charge under Section 354 (d) of IPC and Section 12 of the POCSO Act, 2012 is lacking in the record of the trial court. The trial court has discussed the evidence in its entirety and this Court has no reason to substitute contrary finding and it is not a fit case to grant leave to appeal. Accordingly, application for grant of leave to appeal is rejected.
7. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge