

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 333 of 2018

- State Of Chhattisgarh Through Police Station Bhaanpuri District Bastar Chhattisgarh, District : Bastar(Jagdalpur), Chhattisgarh

---- Petitioner

Versus

- Raju Baghel S/o Son Singh Baghel Aged About 24 Years Caste Bhatra, R/o Village Retavant Kosra Dongaripara, Police Station Bhaanpuri District Bastar Chhattisgarh, District : Bastar(Jagdalpur), Chhattisgarh

---- Respondent

For Petitioner/State	: Shri Vaibhav Goverdhan, P.L.
For Respondent	: None present.

Hon'ble Shri Justice Pritinker Diwaker

Hon'ble Shri Justice Sanjay Agrawal

Order on Board by Pritinker Diwaker J.

04/04/2018

Present petition filed under Section 378(3) Cr.P.C. has been filed to assail the impugned judgment and order dated 21.11.17 passed by Additional Sessions Judge (FTC) Bastar at Jagdalpur in S.T. No. 29/2017 whereby the court below has acquitted the respondent of the offences under Sections 363, 366 & 376 IPC and Section 6 of Protection of Children from Sexual Offences Act.

2. As per prosecution case, prosecutrix (PW-12) went missing since 04.05.15 and missing report was lodged on 22.05.15 vide Ex.P-1 by the maternal uncle of the prosecutrix. Prosecutrix was recovered from the company of the respondent/accused on 13.07.17. In her diary statement she had alleged that she was abducted by the respondent/accused and was

subjected to rape against her will. Respondent/accused was tried for committing offence under Sections 363, 366, 376 and Sections 6 of the Protection of Children from Sexual offences Act. After framing of the charge in relation to the above offence, prosecution has examined 13 witnesses. Statement of the accused/respondent was also recorded under Section 313 Cr.P.C. in which he pleaded his innocence and false implication in the case.

3. By the impugned judgment, the trial Judge has acquitted the accused/respondent on the ground that the prosecutrix has denied in her court statement that she was abducted and subjected to rape by the respondent/accused and the prosecution has failed to prove that the prosecutrix was minor.

4. Counsel for the petitioner/State submits that the trial court has erred in law in acquitting the respondent.

5. Prosecutrix (PW-12) has turned completely hostile and has nowhere stated that she was abducted by the respondent/accused. She has stated that she has performed marriage with the respondent on 25.06.17 and that she is also carrying pregnancy.

6. Considering the statement of the prosecutrix and further considering the fact that respondent and the prosecutrix have performed marriage, the trial court has acquitted the respondent.

7. Thus after hearing counsel for the parties and 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 view that the judgment impugned

acquitting the respondent/accused of the offences under Sections 363,366 and 376 IPC and Section 6 of the Protection of Children from Sexual offences 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.

Sd/-

Pritinker Diwaker
Judge

Sd/-

Sanjay Agrawal
Judge