

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 385 of 2018**

- State Of Chhattisgarh Through Police Station Saja, District Bemetara, Chhattisgarh ---- **Petitioner**

Versus

- Reman Sahu, S/o Shri Bisahu Ram Sahu, Aged about 19 years, R/o Sahaspur, Chowki Devkar, Police Station Saja, District Bemetara (C.G.) ---- **Respondent**

For Petitioner : Shri Vaibhav A Goverdhan, P.L.

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 23.10.2017 passed by Special Judge under POCSO Act / Additional Sessions Judge, Bemera in Sessions Case No. 32/2017 whereby the Court below has acquitted respondent of charges under Sections 363, 366-A IPC and 4, 8 of the Protection of Children from Sexual Offence Act, 2012 (for short, the POCSO Act)

2. As per prosecution case, on 14.04.2017, F.I.R. (Ex.P.9) was lodged by the father of the prosecution (P.W.3) alleging in it that prosecutrix (P.W.2) is missing since 12.04.2017. Based on this report, offence under Section 363 IPC was registered against an unknown person. After due investigation of the matter, prosecutrix was recovered from the custody of the appellant on 14.04.2017 and based on her diary statement, a case against respondent was

registered under Sections 363, 364-A & 376 IPC and 4, 8 of the POCSO Act

3. So as to hold respondent guilty, the prosecution has examined as many as 9 witnesses. Statements of respondents were recorded under Section 313 Cr.P.C., in which, he denied all the circumstances appearing against him and pleaded innocence and false implication.

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

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

6. The prosecutrix in her Court statement has stated that she had a quarrel with her parents and without informing them she left the house and had gone to Bemetara. She has stated that no such incident had taken place with her. Even after she being declared hostile, when she was cross-examined by the Government Advocate, she has not deposed anything against the accused. She has also stated that a compromise had taken place between her and the accused/respondent. Even the father of the prosecutrix has turned hostile.

7. 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 has failed to prove the fact that respondent had eloped the prosecutrix from the legal custody

of her parents and committed rape against her own wish and sweet will. Consequently, the Court below has acquitted the respondent.

8. 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 Section 363, 366-A IPC and 4, 8 of the POCSO 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