

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 442 of 2018**

- The State of Chhattisgarh Through District Magistrate, Rajnandgaon Chhattisgarh

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

- Bhagwati Prasad Arya S/o Latkhor Singh Arya Aged About 45 Years R/o Tibal Colony Ward No.- 3, Police Station Ambagarh Chowki, District Rajnandgaon Chhattisgarh

---- **Respondent**

For Petitioner/State	: Ms. Madhunisha Singh, PL for the State/petitioner
For Respondent	: Shri Aditya Bhardwaj, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****09/07/2018**

1. Heard.
2. The present leave to appeal with an application for condonation of delay has been filed against the acquittal order dated 03.08.2017, passed in Special ST No.20/16 by the Additional Sessions Judge (FTC), Rajnandgaon.
3. As per the case of the prosecution, a report was made by Omprakash Nishad (PW-6), the father of the victim (PW-5) that on 22.03.2016 at 2 pm he came to know that the accused has pressed the cheek of his daughter and placed sickle on her neck. Having enquired, it was stated that on 11.03.2016 during a farewell party of Class-VIII, the accused Bhagwati Prasad Arya, who was working as a peon in the school, with all bad intention pressed the cheek of the daughter of the complainant and placed

sickle on her neck which was seen by others also. Therefore, after investigation, different statements of witnesses were recorded and case against the respondent was registered and the charges were framed under Section 354 IPC for trying to outrage the modesty of four girls and under Section 10 of the Protection of Childre from Sexual Offences Act, 2012. During the trial, the respondent abjured the guilt and the prosecution examined their witnesses.

4. Learned State counsel referred to the statement given under Section 164 Cr.P.C. of the witnesses and submits that the trial Court ignored such statements while deciding the case and acquitted the accused. She further referred to the statement of one Shikha Ramteke, who is the Teacher and would submit that she has stated that all the girls have complained that the present accused tried to outrage the modesty of the girls. Thereby the offence has been committed.
5. Learned counsel for the respondent vehemently opposed the arguments raised by learned State counsel and submits that the ground of appeal has not been properly stated and submits that the order of the Court below is well merited, which do not call for any interference and submits that the leave to appeal cannot be granted.
6. Perused the record of the Court below. There are four victims, who have been examined as PW1, PW3, PW4 & PW5 all the witnesses are the students of the school. Perusal of the statements of the witnesses would show that they have not supported the case of the prosecution and only they stated that the accused asked all the girls to go to their class and completely disowned the incident. Reading the statements of the witnesses would show that since they were scolded to go into the classes by the accused

they felt bad and the report was made. Specifically, the incident of pressing the cheek has been denied. The other witness PW-2, who is also a student is also hearsay witness.

7. Therefore, reading of the entire statements of the victims would show that they have completely disowned the incident and even on cross-examination it would show that they have turned hostile and nothing incriminating has been brought to the surface in support of the prosecution rather the statements of the witnesses show that while the students were out of class, they were asked to go into the class, as such the report was made. Taking into the statements and further the reasons stated in the application for condonation of delay, I do not find that any sufficient reason exist coupled with the fact that prosecution sans merit. The statements do not require any re-appreciation as categorically statement against the prosecution exists. In a result, I do not find any ground to condone the delay and grant leave to appeal.
8. This petition has no merit. It is accordingly dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu