

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 452 of 2018**

State of Chhattisgarh Through P.S. Seepat, District Bilaspur (CG)

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

Lekhram Dheewar S/o Roop Singh Dheewar, Age 23 years, R/o Village Sajapali, Sothi, P.S. Seepat, District Bilaspur (CG)

---- **Respondents**

For Petitioner/State : Ms. K. Tripti Rao, Panel Lawyer

Hon'ble Shri Justice Ram Prasanna Sharma
Order on Board**28/8/2018**

1. Heard on I.A.No.1/2018, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and the law laid down by the Hon'ble Apex Court in the matter of State of Haryana Vs. Chandra Mani & Ors., (1996) 3 SCC 132, delay of 161 days in filing the petition is condoned.
3. Also heard on the application for grant of leave to appeal filed under Section 378 (3) Cr.P.C.
4. As per the application, the trial Court had convicted the respondent for commission of offence under Sections 456 and 354 of the I.P.C. and Section 8 of the Protection of Children from Sexual Offences Act, 2012, but it had acquitted erroneously the said respondent for commission of offence

under Section 3 (1) (xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short the SC/ST Act). This petition has been filed for reversing the judgment and acquittal of the respondent under Section 3 (1) (xi) of the SC/ST Act.

5. To substantiate the charge prosecution has examined as many as 11 witnesses before the trial Court.

6. Prosecutrix is PW1. Rajkumar Porte(PW2), Balram Singh Porte (PW4), Manrakhan (PW10) and Budhwara Bai(PW11) are the witnesses to the incident. No one had stated before the trial Court that the respondent was having knowledge regarding caste of the prosecutrix. Though it is mentioned by the witnesses that the prosecutrix is Gond by caste, but they have not stated that her caste is in the knowledge of the respondent. For commission of any offence, knowledge part is essential. If the respondent was not having knowledge regarding caste of the prosecutrix, it cannot be said that he committed the offence knowing the caste of the prosecutrix. The other offences are related to opposite sex and evidence is not adduced on the basis of caste, but it is sex based offences, therefore, the finding of the trial Court regarding acquittal for the said offence under Section 3 (1) (xi) of the SC/ST Act is based on relevant material placed on record and it cannot be said that the finding is perverse or based on extraneous matter. Accordingly, the prayer for leave to appeal is rejected.

7. Consequently, Cr.M.P. is dismissed.

Sd/

(Ram Prasanna Sharma)

Judge

