

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 669 of 2018

- State Of Chhattisgarh Through- The Incharge Police Station Janjgir District- Janjgir-Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- Petitioner

Versus

- Sagar Kumar Suryawanshi S/o Gaurishankar Suryawanshi Aged About 19 Years R/o- Village Mohgaon, Police Station Saragaon, District- Janjgir-Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- Respondent

For Petitioner/State	:	Shri Vivek Sharma, G.A.
For Respondent	:	None present.

Hon'ble Shri Justice Pritinker Diwaker
Hon'ble Smt. Justice Rajani Dubey

Order on Board by Pritinker Diwaker, J.

30/08/2018

Considering the fact that record of the trial court has been received default as pointed out by the Registry is overruled.

Heard on I.A. No. 01, application seeking condonation of delay in filing the present petition.

For the reasons mentioned in the application, the same is allowed. Delay in filing the petition is condoned.

Also heard on admission.

This petition filed under Section 378(3) of the Code of Criminal Procedure assailing the impugned judgment and order dated

30.01.2018 passed by the Sessions Judge, district Janjgir-Champa in Sessions Case No.46/2017 whereby the court below has acquitted the respondents of the offence under Sections 307/34 & 324/34 IPC.

As per prosecution case on 21.07.17, FIR Ex.P-2 was lodged by the basis of written report lodged by father of the prosecutrix (PW-2) Lakhan Lal FIR Ex.P-6 was registered on 25.10.2016 against unknown persons under Section 363 IPC. Prosecutrix was recovered from the custody of the appellant on 7.5.17 ie. after about six months of lodging the missing report. Respondent was tried under Sections 363,366 and 376 IPC read with Section Section 6 of the Protection of Children from Sexual Offences Act.

After framing of charge in relation to the above offence, prosecution has examined seven 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.

By the impugned judgment, the trial Judge has acquitted the accused/respondent of the offence as mentioned above.

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

Heard counsel for the State/petitioner and perused the record.

In the court, prosecutrix (PW-1), has completely turned hostile and has not supported the prosecution case. Further there is no legally admissible evidence showing the prosecutrix to be minor.

Considering all the aspects of the case, the trial court has come to the conclusion that the offence under Sections 363, 366 & 376 IPC

and Section 6 of the Protection of Children from Sexual Offences Act as alleged by the prosecution is not made out against the respondent.

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, no illegality or infirmity is noticeable in the conclusion drawn by the court below acquitting the accused. Even otherwise keeping in mind the material on record leads to two possible views the one favouring the accused has to be preferably taken, this Court is of the view that the judgment impugned acquitting the respondent/accused of the offence under Sections 363,366 & 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 and the petition is accordingly dismissed.

Sd/-

(Pritinker Diwaker)
Judge

Sd/-

(Rajani Dubey)
Judge