

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 704 of 2018**

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

Versus

Rajvinder Singh S/o Shri Mahendra Singh Aged About 25 Years
R/o- Inawajawa, P.S. Sherpur, District- Sangru, (Panjab).

---- **Respondent**

For Petitioner/State : Shri Vivek Sharma, Govt. Advocate.

Hon'ble Shri Pritinker Diwaker and
Hon'ble Shri Sanjay Agrawal, J.J.

Order On Board**17.05.2018****Per Pritinker Diwaker, J.**

1. Present petition has been filed under Section 378(3) of the Code of Criminal Procedure 1973 (for short, 'the Cr.P.C.'), seeking leave to appeal, to assail the impugned judgment dated 24.10.2017 passed by the Special Judge under POCSO Act / Additional Sessions Judge, Bemetara, District Bemetara (C.G.) whereby respondent/accused has been acquitted of the offence punishable under Sections 363, 366, 376 of IPC and Sections 4, 5(३) read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO').

2. As per prosecution case, on 30.11.2014 FIR (Ex.P.-7) was lodged by father of the prosecutrix, namely, Dineshpuri Goswami (PW-2) alleging in it that his minor daughter is missing.

Subsequently, on 07.06.2017 the prosecutrix was recovered from the custody of the respondent/accused. Based on her diary statement, offence punishable under Section 363 IPC was registered against the respondent/accused.

3. After completion of investigation, offence punishable under Sections 363, 366, 376 of IPC and Sections 4, 5(३) has been framed against the respondent/accused. While framing the charge, the trial Court has framed charge against the respondent/accused for the offence punishable under Sections 363, 366, 376 of IPC and Sections 4, 5(३) read with Section 6 of POCSO Act.

4. So as to hold respondent/accused guilty, the prosecution has examined as many as 7 witnesses. Statement of respondent/accused was recorded under Section 313 Cr.P.C., in which, he denied all the circumstances appearing against him and pleaded innocence and false implication.

5. By the impugned judgment, the trial Court acquitted respondent/accused mainly on the ground that the prosecutrix has not supported the case of the prosecution.

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

7. In the Court, prosecutrix (PW-1) has not supported the case of the prosecution and has been declared hostile. She has stated that respondent/accused is her husband. She had gone to Punjab of her own and there she came in contact with the respondent and

got married with him. She further submits that at the time of her marriage, her age was 19 years and that she is also having a child. Considering the statement of the prosecutrix and further considering the fact that she got married with the respondent/accused, the trial Court has acquitted the respondent/accused of the above charges.

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, in the considered opinion of the Court, reversion of the findings of acquittal by the appellate Court taking the other possible view into consideration, would not be permissible in law. Accordingly, the judgment impugned acquitting the respondent/accused of the charges under Sections 363, 366, 376 of IPC and Sections 4, 5(ॢ) read with Section 6 of POCSO Act is just and proper and does not call for any interference.

9. 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