

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 959 of 2018

- State of Chhattisgarh Through : Police Station - City Kotwali, District Raigarh (C.G.)

---- Applicant

Versus

- Vikas Thakur S/o Shri Laxman, aged about 22 years, Occupation - Labourer, R/o Shiva Nagar Kevdabadi, Bus Stand, P.S. City Kotwali, Raigarh, Tehsil & District Raigarh (C.G.)

---- Respondent

For Applicant/State	-	Shri Adil Minhaj, P.L.
For Respondent	-	None

**Hon'ble Shri Justice Pritinker Diwaker &
Hon'ble Shri Justice Gautam Chourdiya**

Judgment On Board

By Pritinker Diwaker, J.
19/06/2018

1. The default as pointed out by the office is overruled .
2. Heard on I.A.No.01/2017, application for condonation of delay in filing the Cr.M.P.
3. For the reasons mentioned in the application, the same is allowed and delay in filing the Cr.M.P. is condoned.
4. Also heard on admission.
5. Present CRMP has been filed by the State seeking leave to appeal under Section 378 (3) of the Code of Criminal Procedure,1973 assailing the judgment and order dated

26.04.2017 passed by II Additional Sessions Judge, District Raigarh in POCSO ACT 2012/86/2015 acquitting the accused/respondent of the charges under Sections 363, 366, 376 IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 (for short 'the Act').

6. As per the prosecution case, on 16.03.2015 FIR (Ex.P/1) was lodged by Phool Bai (PW/1) alleging in it that the prosecutrix aged 17 year did not return from the market and she appears to have been abducted by someone. Based on this FIR (Ex.P/1), offence under Section 363 IPC was registered against unknown person. Subsequently, on 30.07.2015 the prosecutrix was recovered from the custody of respondent/accused and later he was tried for the offence under Sections 363, 366, 376 IPC and Section 6 of the Act.

7. In the Court, Prosecutrix (PW/2) has stated that she was living in the house of her aunt and she came in contact with the respondent/accused. According to her, she married respondent/accused and were living as husband and wife but she was taken into custody while living with respondent/accused. Later the prosecutrix was declared hostile. In para 5 of cross-examination, the prosecutrix has categorically stated that at present she is 21 year of age and at the time of marriage she was 19 year of age.

8. Considering the statement of the prosecutrix and other evidence available on record, the trial Court has arrived at a conclusion that the respondent/accused cannot be convicted for any offence and thus acquitted him extending benefit of

doubt. The view taken by the trial Court appears to be justified and one of the possible view. The prosecution thus utterly failed in proving its case beyond reasonable doubt and the trial Court has been fully justified in recording the finding of acquittal which is based on proper appreciation of evidence available on record. That apart, the settled legal position that if two reasonable conclusions are possible on the basis of evidence on record the appellate Court should not disturb the finding of acquittal recorded by the trial Court. Furthermore, in case of appeal against the acquittal the scope is very limited and interference can only be made if finding recorded by the trial Court is highly perverse or arrived at by ignoring the relevant material and considering the irrelevant ones. In the present case, no such circumstance is there warranting interference by this Court.

9. Accordingly, the CRMP preferred by the State/applicant is bereft of any substance, the same is liable to be and is hereby dismissed at the admission stage itself.

Sd/-

(Pritinker Diwaker)
JUDGE

Sd/-

(Gautam Chourdiya)
JUDGE