

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1017 of 2018

- State Of Chhattisgarh, Through the Incharge Police Station Khairagarh, District- Rajnandgaon, Chhattisgarh.

---- Petitioner

Versus

- Ashok Verma @ Balram S/o Jagesar Aged About 23 Years, R/o- Village Sandi, P.S. Khairagarh, District- Rajnandgaon, Chhattisgarh.

---- Respondent

For State/Petitioner	:	Shri Rahul Tamaskar, P.L.
For Respondent	:	None.

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

Judgment on Board

Per Pritinker Diwaker, J

03.08.2018

1. Heard on I.A. No. 01/2018, application for condonation of delay in filling the appeal.
2. For the reasons mentioned in the application, the same is allowed and delay in filling the CRMP is condoned.
3. Also heard on admission.
4. The present petition 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 07.11.2017 passed by Additional Sessions Judge, Khairagarh, District Rajnandgaon, C.G. in Special Sessions Trial No. 03/2017 acquitting the accused/respondent of the charge under Sections 363, 366, 376(2)(J)(N) of IPC and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

5. Brief facts of the case are that on 19.02.2016 missing report was lodged by Mehtar Nishad, father of the prosecutrix, alleging in it that since 17.02.2016 his daughter PW-8 was missing and she had eloped with the respondent/accused. Based on this report, offence under Section 363 of IPC was registered against the respondent/accused. Subsequently, on 19.01.2017 the prosecutrix was recovered from the custody of the respondent/accused. On the basis of the statement of the prosecutrix, offence under Sections 363, 366 & 376 of IPC was registered against the respondent/accused.
6. So as to hold the accused/respondent guilty, the prosecution has examined 8 witnesses. Statement of the respondent/accused was also recorded under Section 313 of Cr.P.C. wherein he denied the circumstances appearing against him in the prosecution case, pleaded innocence and false implication.

7. The trial Court after hearing counsel for the respective parties and considering the material available on record has acquitted the accused/respondent as mentioned in para-1 of this judgment. Hence, this petition for leave to appeal.
8. Counsel for the State submits that the trial Court has erred in law in acquitting the accused/respondent even when there is ample evidence against him.
9. We have heard learned State counsel and perused the material available on record.
10. During trial, the prosecutrix turned hostile and has stated that she had gone to Hyderabad along with the respondent/accused for her livelihood and no incident as alleged has been taken place.
11. Considering the statement of the prosecutrix and further considering the evidence relating to her age, the trial Court has come to the conclusion of acquitting the respondent/accused of the charges levelled against him by extending him benefit of doubt. We find no illegality in the order impugned acquitting the respondents particularly when it is a settled position that if on the basis of record two conclusions can be arrived at, the one favouring the accused has to be preferred. Even otherwise, the prosecution thus has 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. 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.

12. Accordingly, the CRMP preferred by the State/applicant is bereft of any substance and, therefore, the same is liable to be and is hereby dismissed at the admission stage itself leading to refusal of leave to appeal as sought for by the State.

Sd/-
(Pritinker Diwaker)
JUDGE

Sd/-
(Gautam Chourdiya)
JUDGE