

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1295 of 2018**

- State of Chhattisgarh Through- Police Station Dabhra, Distt. Janjgir-Champa (Chhattisgarh).

---- Petitioner

Versus

- Balram Bhardwaj, S/o Vijay, aged about 20 years, R/o Village Budhapurena, Police Station- Dabhra, Distt. Jangir-Champa (Chhattisgarh).

---- Respondent

For Petitioner/State	:	Shri Adil Minhaj, Panel Lawyer
For Respondent	:	None.

Hon'ble Shri Justice Pritinker Diwaker &**Hon'ble Shri Justice Gautam Chourdiya****Judgment on Board****Per Pritinker Diwaker, J.****13/08/2018**

1. Heard on I.A. No.-01/2018, application for condonation of delay in filing the present petition.
2. For the reasons mentioned in the application, the same is allowed and delay in filing 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 15.03.2018 passed by First Additional Session Judge Sakti, District- Janjgir-Champa,

in Special Case No. 29/2016 acquitting the accused/respondent of the charge under Sections 363, 366 (A) of IPC and Section 6 of POCSO Act in alternative Section 376(1) of IPC.

5. Brief facts of the case are that on 31.03.2016, FIR was lodged by father of the prosecutrix PW-1 alleging in it that since 08.03.2016 the prosecutrix is missing. On this basis of which, offence under Sections 363 of IPC was registered against unknown person. Later on 15.07.2016 the prosecutrix was recovered from the custody of the respondent/accused. While framing charges, the trial Judge framed charges against the respondent under Sections 363, 366 (A) of IPC and Section 6 of POCSO Act in alternative Section 376(1) of IPC.
6. So as to hold the accused/respondent guilty, the prosecution has examined 17 witnesses. Statement of the respondent/accused was also recorded under Section 313 of Cr.P.C. wherein he pleaded innocence and false implication.
7. By the impugned judgment the trial Judge, after hearing the parties and considering the entire material on record, acquitted the respondent of all the charges.
8. Counsel for the State submits that the impugned judgment is not in accordance with law and the respondent ought to have been convicted.
9. From the statement of the prosecutrix (PW-1), it is apparent that she accompanied the respondent of her own without offering any resistance. The prosecutrix lived with the respondent/accused for

about four months and during this period also she did not make any efforts to come out from the clutches of the respondent. As per evidence available on records the prosecutrix was aged about 20 years on the date of incident. As per the statements of the prosecutrix (PW-1), she is 20 years and her father and mother also deposed that the prosecutrix is 20 years of age at the relevant time.

10. Considering the statement of the prosecutrix, her age and conduct, the trial Court has acquitted the respondent/accused of the charges leveled against him. We find no illegality in the order impugned acquitting the respondent. 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.

11. 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

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