

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1771 OF 2017**

The State of Chhattisgarh Through District Magistrate, Bemetara,
Chhattisgarh.

---- **Petitioner****Versus**

Mineshwar @ Meenu S/o Parmanand Patel, Aged About 21
Years By Occupation Agriculturist, R/o Village Paleni, Police
Station Khamariya, District Bemetara Chhattisgarh.

---- **Respondent**

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

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

Order On Board**04/05/2018****Per Pritinker Diwaker, J.**

1. Heard on admission.
2. The 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, against the judgment dated 04/09/2017 whereby the respondent/accused has been acquitted.
3. By the impugned judgment dated 04/09/2017 passed in Special (Atrocities) Case No. 01/2016 by the Special Judge under the Atrocities Act, 1989, Bemetara, District- Bemetara (C.G.), the respondent/accused Mineshwar @ Meenu has been acquitted of the offence punishable under Sections 363, 366, 376, 323, 506 Part-II of the Indian Penal Code (for short 'IPC') and Sections 3 and 4 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') and Section

3(1)(12) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'Atrocities Act').

4. As per prosecution case, on 12/08/2015, FIR (Ex. P-21) was lodged by prosecutrix (PW-11), aged about 21 years, alleging in it that she was having affair with the accused/respondent and she lived with him from 14.01.2015 till 01.08.2015. However, as the respondent has refused to marry her, she lodged the report. Based on this FIR, offence under Sections 363, 366, 376, 323, 506 Part-II of IPC and Sections 3 and 4 of POCSO Act and Section 3(1)(12) of Atrocities Act has been registered against the accused/respondent.

5. So as to hold the respondent guilty, the prosecution has examined as many as 27 witnesses. Statement of the respondent was recorded under Section 313 Cr.P.C., in which, he denied all the circumstances appearing against him, pleaded innocence and false implication.

6. By the impugned judgment, the trial Court has acquitted the respondent of the aforesaid offences mainly on the ground that the prosecutrix (PW-11) has not supported the case of the prosecution and has been turned hostile.

7. Learned counsel for the petitioner/State submits that the trial Court has erred in law in acquitting the accused/resondent.

8. We have head learned counsel appearing for the State/petitioner and perused the record carefully.

9. Prosecutrix (PW-11) has stated that she never lived with the accused nor the accused had any relation with her. According to her, she did not lodge the report and she was asked to sign on the blank paper. As the prosecurtix has turned completely hostile, the trial Court

has acquitted the accused/respondent of all the aforesaid offences. Admittedly, the prosecutrix is a major lady and has not supported the case of the prosecution. After considering the evidence of prosecutrix, her parents and also other witnesses, who have not deposed anything against the accused/respondent, the trial Court was justified in acquitting the accused/respondent.

10. After considering the material available on record as well as the elaborate judgment impugned passed by the trial Court 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, reversion of the findings of acquittal by the appellate Court taking the other possible view into consideration, is not permissible in law, this Court is of the opinion that the judgment impugned acquitting the accused/respondent of the offence punishable under Sections 363, 366, 376, 323, 506 Part-II of IPC and Sections 3 and 4 of POCSO Act and Section 3(1)(12) of Atrocities Act is just and proper and does not call for any interference.

11. Accordingly, the leave as sought for by the State/petitioner for registration of an appeal against the judgment of acquittal is hereby refused.

12. Petition is accordingly dismissed at the admission stage.

Sd/-
(Pritinker Diwaker)
Judge

Sd/-
(Sanjay Agrawal)
Judge