

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Cr. M. P. No. 1808 OF 2017

State of Chhattisgarh, Through The Incharge, Police Outpost
Manora, Police Station Jashpur, District Jashpur, Chhattisgarh.

---- Petitioner

Versus

Jeetan Ram, S/o Gurjan Ram, Caste Lohar, Aged About 21
Years, R/o Village Nalapara, Sogda, Police Station Jashpur,
District Jashpur, Chhattisgarh.

---- Respondent

For State/Petitioner : Shri Ravindra Agrawal, Govt. Advocate.

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

Order On Board

09/04/2018

Per Pritinker Diwaker, J.

1. Heard on I.A. No. 01/2017, an application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application, the same is allowed. Delay in filing the petition is hereby condoned.
3. Also heard on admission.
4. 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 17/07/2017 acquitting the respondent.
5. By the impugned judgment dated 17/07/2017 passed in Special Case No. 06/2017 by the Special Judge under the Act of 2012 &

Additional Sessions Judge (FTC), Jashpur (C.G.), the respondent/accused Jeetan Ram has been acquitted of the offence punishable under Sections 363, 366-A and 376(2)(n) of the Indian Penal Code (for short 'IPC') read with Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'), giving him benefit of doubt.

6. As per prosecution case, on 21/03/2017, a written report (Ex. P-8) was lodged by Muneshwar Ram (PW-2), father of the prosecutrix (PW-1), alleging in it that his daughter (PW-1), aged about 16 years has been abducted by the accused/respondent on 12/03/2017 and when he made inquiry, he threatened him.

7. Based on this written report, First Information Report was registered against the respondent accusing him for the offence under Section 363 IPC and after 3 days of the lodging of the First Information Report, i.e., on 24/03/2017, the prosecutrix (PW-1) was recovered from the possession of the accused/respondent.

8. On the basis of the diary statement of the prosecutrix, investigation was done and charge-sheet was filed against the respondent. The trial Court framed the charge against the respondent under Sections 363, 366-A and 376(2)(n) IPC read with Section 6 of POCSO Act.

9. So as to hold the respondent guilty, the prosecution has examined as many as 9 witnesses. Statement of the respondent was recorded under Section 313 Cr.P.C., in which, he denied all the circumstances appearing against him and pleaded innocence and false implication.

10. By the impugned judgment, the trial Court acquitted the respondent of the aforesaid offence.

11. Learned counsel for the State/Petitioner submits that the trial Court has erred in law in acquitting the respondent by ignoring the First Information Report, diary statement as well as the evidence of the prosecutrix.

12. Prosecutrix (PW-1) in her cross examination has stated that without informing her parents, she had gone to the house of her uncle, where she stayed for about 1½ week and thereafter, she returned. No incident whatsoever had taken place with her and after being declared hostile, she has stated that she became pregnant with someone else. After considering the statement of the prosecutrix (PW-1) and other witnesses, the trial Court has come to the conclusion that no case, whatsoever, has made out against the accused/respondent and has acquitted the accused.

13. We have heard learned counsel appearing for the State/petitioner and perused the record carefully.

14. After going through the evidence, we are of the view that after due appreciation of the evidence, the trial Court has acquitted the accused/respondent and further considering the fact that the age of the prosecutrix (PW-1) has not been proved to be minor as per requirement of the law, the trial Court was justified in acquitting the accused/respondent.

15. 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, 366A and 376(2)(n) IPC read with Section 6 of POCSO Act is just and proper and does not call for any interference. Accordingly, the leave as sought for by the State/petitioner for registration of an appeal against the judgment of acquittal is hereby refused.

16. Petition is accordingly dismissed at the admission stage.

Sd/-
(**Pritinker Diwaker**)
Judge

Sd/-
(**Sanjay Agrawal**)
Judge