

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Misc. Petition No.2294 of 2018**

- State Of Chhattisgarh Through Station House Officer, Police Pamgarh District Janjgir Champa Chhattisgarh.

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

- Ramesh Rathore S/o Late Govind Rathore Aged About 24 Years R/o Village Dharashiv Police Station Pamgarh District Janjgir Champa Chhattisgarh.

---- **Respondent**

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 For the Petitioner/State : Shri Gary Mukhopadhyaya, Govt.  
 Advocate

For the respondent : None  
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**Hon'ble Shri Justice Ram Prasanna Sharma**  
**Order On Board**

**30.11.2018.**

1. Heard on IA No.01/17 for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and the law laid down by Hon'ble Supreme Court in the matter of **State of Haryana Vs. Chandra Mani & Ors.** reported in **1996 3 SCC 132**, the delay of 69 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.
4. This petition has been preferred against judgment dated 03.5.2018 passed by Special Judge under the Protection of Children from Sexual Offences Act, 2012, Janjgir, Distt. Janjgir-Champa (CG) in Special Criminal Case No.24/2016 wherein the said Court acquitted the respondent for the charges under

Sections 12 of Protection of Children From Sexual Offences Act, 2012 (for short 'the POCSO Act') in alternate Section 354D of the Indian Penal Code i.e. the offence of stalking.

**5.** Case of the prosecution is based on the statement of the prosecutrix (PW-1). At one point of time the prosecutrix stated that the respondent told her that he has fell in love with her, but from her statement it is not clear at which place the said words were uttered by the respondent. Statement made by the prosecutrix is general and bald in nature which is not sufficient to establish the said fact. As per the version of the prosecutrix, at one point of time, the respondent was standing at the door of the school and tried to give her mobile phone. This incident took place in a public place which is a school, but no one was examined from the school in support of her version. She further deposed that at another point of time the respondent threatened that he will commit suicide by hanging with a fan. This statement is also bald and general in nature and it is not clear from the statement of the prosecutrix that on which date he threatened her. Other witnesses adduced by the prosecution are hearsay in nature because none of them witnessed any of the incident.

**6.** Looking to the absence of any evidence at school and looking to the bald statement of the prosecutrix the trial court opined that it is not safe to act upon the statement of the prosecutrix and convict the respondent. The finding arrived at by the trial Court is based on relevant material placed on record and the same is not based on extraneous and irrelevant material.

There is presumption of innocence in favour of the respondent and it is further strengthened by his acquittal order passed by the trial Court. It is settled law that if two views are possible, the view which is in favour of the person charged should be taken. This Court has no reason to take a different view. It is not a case where the respondent should be called for full consideration of the petition.

7. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

**Sd/-  
(Ram Prasanna Sharma)  
JUDGE**