

HIGH COURT OF CHHATTISGARH, BILASPUR
Cr.M.P No.2326 of 2018

Amrit Kumar Paikra S/o Mahal Ram Kanwar Aged About 26 Years R/o Village- Kotsari, Police Station- PASTHA, Police Station- Ramanujganj, District- Balrampur- Ramanujganj, Chhattisgarh.

---- **Petitioner**

Versus

State Of Chhattisgarh Through Police Station- Basantpur, District- Balrampur- Ramanujganj, Chhattisgarh.

-----**Respondent**

For Petitioner:

Shri Vikas Pandey, Advocate.

For Respondent/State:

Shri Adil Minhaj, Panel Lawyer.

Single Bench: Hon'ble Shri Sanjay Agrawal, J
Order On Board

14.11.2018

1. Heard on admission.
2. By way of this Petition, the Petitioner is questioning the propriety of the charge sheet filed on 10.04.2018 against the Petitioner in connection with Crime No.28/2018 for the offence punishable under Sections 376(2)(n), 417 and 313 IPC and also under Section 6 of the POCSO Act, 2012.
3. Learned Counsel for the Petitioner submits that as per the prosecution, the alleged offence has been committed on 30.01.2015. However, a written complaint was lodged by the prosecutrix only on 07.03.2018 without explaining the inordinate delay in this regard. He therefore submits that the Petitioner has been falsely implicated in connection with the said crime. He submits further that the prosecutrix was not a minor on the said date i.e. 30.01.2015

and in fact was a consenting party, therefore, the offence so registered against the Petitioner is apparently contrary to law. He therefore submits that the entire charge sheet deserves to be quashed.

4. On the other hand, Shri Minhaj, learned State Counsel, while opposing the aforesaid contentions, submits that *prima facie* materials are available on charge sheet which reveal very specifically that when the alleged offence was committed by the Petitioner on 30.01.2015, the prosecutrix was a minor as visualized from the school register showing her date of birth as 20.08.1998. He submits further that the statement of the prosecutrix would also reveal that the Petitioner has not only committed sexual intercourse with her on 30.01.2015 but, continued to do so also on the pretext of marriage. Therefore, under such circumstances, the charge sheet does not require to be quashed.

5. I have heard learned Counsel for the parties and perused the entire charge sheet carefully.

6. According to the prosecution, the Petitioner has committed sexual intercourse forcefully with the prosecutrix on 30.01.2015 after entering into her house in the evening when she was alone at home. Further story of the prosecution would show that the Petitioner thereafter also continued to commit the said act with the prosecutrix on the pretext of marriage and the school register as submitted while filing the charge sheet would also show that the prosecutrix was minor at that particular time. In such circumstances, merely on the ground that the FIR has been registered on 07.03.2018 would not by itself be sufficient for quashment of the charge sheet. Considering the nature of the offence as alleged by the prosecution, vis-a-vis, the documentary evidence as well as the oral statements recorded under Section 161 Cr.P.C, I am not inclined to quash the charge sheet.

7. Accordingly, the instant Petition is dismissed. No order as to costs.

Sd/-
(Sanjay Agrawal)
JUDGE

Priya