

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 640 of 2019

- State of Chhattisgarh Through Police Station Ramanujnagar, District Surajpur Chhattisgarh.

---- Appellant

Versus

- Naresh Beck S/o Shri Sikar Ram Beck Aged About 21 Years Caste - Uraon, R/o Pawanpur, Police Station Ramanujnagar, District Surajpur Chhattisgarh. (Accused).

---- Respondent

---

For Appellant-State       :-       Shri Neeraj Mehta, PL

---

Hon'ble Shri Prashant Kumar Mishra

Hon'ble Shri Gautam Chourdiya, JJ.

Order on Board

By

Prashant Kumar Mishra, J

09/07/2019

1. Heard learned State counsel for the applicant on I.A. No.1 as also on admission.

I.A. No.1 of 2019

2. This is an application for condonation of delay in filing the application seeking leave to appeal.

3. On due consideration, application is allowed and delay of 199 days in filing application seeking leave to appeal is condoned. Accordingly, I.A. No.1 stands allowed.
4. The trial Court has acquitted the accused of the charges under Sections 366, 506 Part-2, 376 (2) (n) of IPC and Under Section 4 of Protection of Children from Sexual Offences (POCSO) Act, 2012.
5. There is evidence to the effect that the prosecutrix and the accused had an affair and he committed sexual intercourse on promise to marry but later on refused to marry her after she became pregnant. Thus, there was consent of the prosecutrix at the time of commission of sexual intercourse. The trial Court has found that there is no cogent and reliable evidence in respect of age of the prosecutrix proving her to be less than 18 years of age on the date of incident. Referring to the statement of PW-2 Devsai and PW-3 Smt. Prabha, the parents of the deceased, finding has been recorded that the witnesses being rustic villagers they are not aware about the date of birth of the prosecutrix and the entry made in the Dakhil Kharij Register was written by the teacher PW-9 Smt. Bindiya Singh. Thus, there is no primarily acceptable evidence in respect of age of the prosecutrix.

6. In view of the quality of evidence available on record the trial Court has not committed any illegality to hold that there is no proof that the prosecutrix was less than 18 years of age on the date of incident, therefore, the consequent finding that because of consensual relation between the accused and the prosecutrix the case under Sections 366, 506 Part-2, 376 (2) (n) of IPC and Under Section 4 of Protection of Children from Sexual Offences (POCSO) Act, 2012 is not made out does not call for any interference.
7. There is no substance in this application seeking leave to appeal, accordingly, Cr.M.P. is dismissed.

Sd/-

**(Prashant Kumar Mishra)**  
Judge

Sd/-

**(Gautam Chourdiya)**  
Judge

Ankit