

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 574 of 2019**

State of Chhattisgarh: Through Station House Officer, Police
Station Bortalab, District Rajnandgaon (C.G.)

---- Petitioner**Versus**

1. Sunil Kanwar, S/o - Surendra Kanwar, Aged about 19 years, R/o-
Old Acholi, Police Station - Dongargarh, District - Rajnandgaon
(C.G.)
2. Niteshwar, S/o - Late Sukhdeo Kanwar, Aged about -18 years,
R/o - Old Acholi, Police Station Dongargarh, District Rajnandgaon
(C.G.)
3. Avinash Verma, S/o - Dhanesh Verma, Aged about - 32 years,
R/o Acholi, Police Station - Dongargarh, District - Rajnandgaon
(C.G.)

---- Respondents

For State/Petitioner: Shri Ravish Verma, Government Advocate.

For Respondents : None.

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****12/04/2019**

1. Heard on I.A. No. 01/2019, application for condonation of delay in
filing the petition.
2. For the reasons mentioned in the application and as per the law
laid down by Hon'ble the Apex Court in the matter of **State of
Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC
132**, the delay of 49 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under
Section 378 (3) of the Code of Criminal Procedure, 1973.
4. This petition is directed against the judgment dated 29th
September, 2018 passed by Additional Judge, Dongargarh to the

Court of First Additional Sessions Judge, Rajnandgaon (C.G.) in Special Criminal Case No. 05/2017 wherein the said Court acquitted respondent No. 1- Sunil Kanwar and respondent No. 2- Niteshwar for charge under Section 354 read with Section 109 of IPC, 1860 and Section 8 read with Section 17 of Protection of Children from Sexual Offences Act, 2012 (for short “the POCSO Act”) and also acquitted respondent No. 3-Avinash Verma for charge under Sections 341, 294, 506 Part-II and 354-A Sub-clause (1)(i) of IPC, 1860 and Section 8 of the POCSO Act.

5. In the present case, prosecutrix is (PW-11). Though, she deposed before the trial court in her examination-in-chief that respondent No. 3-Avinash Verma teased her, touched her private part and adduced her, but in her cross-examination, she deposed that the said respondent only stopped her while she was returning to home when reached at Acholi Square. She further deposed in her cross-examination that no act was committed by said Avinash Verma.
6. The case of the prosecution is based on statement of prosecutrix and other witnesses which are only supporting piece of evidence or evidence of persons who assisted during investigation after registration of FIR.
7. Looking to the entire evidence, the trial Court opined that the charges leveled against respondent No. 3- Avinash Verma is not established. Prosecutrix deposed that respondent No. 2- Niteshwar and respondent No. 1- Sunil Kanwar are her friend and she did not depose regarding any criminal act by Sunil Kanwar

and Niteshwar. Though, she admitted that they had gone to one Paniyajob Canal for picnic. The trial Court elaborately discussed the entire evidence and recorded finding that in absence of reliable and cogent reason, the charge leveled against the respondents is not established.

8. After re-assessing the entire evidence, this Court has no reason to record contrary finding. It is not a case where respondents should be called for hearing again for full consideration of this petition.
9. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge