

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.867 of 2019**

- State Of Chhattisgarh Through Police Station Purani Basti, District Raipur, Chhattisgarh.

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

- Ekansh Tripathi S/o. Shri Santosh Tripathi, Aged about 22 years, R/o. Sector 3, Gali No.1, Professor Colony, Purani Basti, Distt. Raipur Chhattisgarh

---- **Respondent**-----
For the Petitioner/State : Smt. Subha Shrivastava, Panel LawyerFor the respondent : None
-----**Hon'ble Shri Justice Ram Prasanna Sharma****Order On Board****13.5.2019.**

1. Heard on IA No.01/2019 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 21 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 is preferred against the judgment of acquittal dated 26.10.2018 passed by Special Judge under the Protection of Children from Sexual Offence Act, 2012 (for short 'the Act 2012'), Raipur (CG) in Special Criminal Case (POCSO) No.35/2018 wherein the said Court acquitted the respondent for the charge under 354, 354(A) of the Indian Penal Code, 1860 and under Section 12 of the Act 2012.

5. In the present case, prosecutrix is PW-2. The entire prosecution story is based on the evidence of the prosecutrix. There is no other eyewitness account of the incident. Other witnesses have deposed before the trial Court what is informed to them by the prosecutrix. Though the prosecutrix deposed before the trial Court that the respondent caught hold her hand and asked her to move with him, but she deposed before the trial Court that the incident was not informed to her class teachers or Head Master of the school in which she was reading. There is evidence that the place of incident is public road where people of the locality are moving from one direction to other but no one has seen the incident as alleged by the victim. Looking to the conduct of the victim that she has not informed the incident to any of the authority of the school and lack of eyewitness, the trial court opined that it is not safe to act on the statement of the victim. The trial Court has given sufficient reasoning for recording finding of acquittal. It is settled law that if two views are possible, the view in favour of the accused should be accepted. After reassessing the entire evidence, this court has no reason to record a contrary finding. It is not a case where the respondents should be called for full consideration of the matter.

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

Sd/-
(Ram Prasanna Sharma)
JUDGE