

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.857 of 2019**

- State Of Chhattisgarh Through Station House Officer, Police Station Champa District North Bastar, Kanker Chhattisgarh.

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

- Bharat Meshram S/o. PL Meshram Aged about 51 years, R/o. Village Golkumhada, PS Charama District Kanker (CG)

---- **Respondent**-----
For the Petitioner/State : Shri Afroj Khan, Panel Lawyer

For 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 294 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 26.02.2018 passed by Additional Sessions Judge (FTC)/Special Judge under the Protection of Children from Sexual Offence Act, 2012 (for short 'the Act 2012'), North Bastar Kanker (CG) in Special Criminal Case (POCSO) No.05/2017 wherein the said Court acquitted the respondent for the charge under 354 of

the Indian Penal Code, 1860 and under Section 8 of the Act 2012.

5. In the present case, prosecutrix is PW-3. She did not support the version of the prosecution before the trial Court. As per the version of this witness, nothing was committed by the respondent against her. This witness has been subjected to leading questions by the prosecution side but no incriminating circumstances are established against the respondent from the evidence of this witness. Ku. Roshni Netam (PW-1), Neel Kamal Kunjam (PW-4), Ku. Manisha Markam (PW-5) and Smt. Manju Sahu (PW-7) have also not supported version of the prosecution. Version of Ku. Roshni Netam and Neel Kamal Kunajam (PW-4) is based on the information given to them by the prosecutrix. The prosecutrix herself is not stating anything against the respondent. Other witnesses are witnesses of investigation after registration of FIR. Looking to the entire evidence, the trial Court recorded a finding that charges of assault or criminal force against the prosecutrix by the respondent to outrage her modesty or offence of sexual assault as defined under Section 7 of the Act 2012 is not established. 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