

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1413 of 2019**

- State Of Chhattisgarh Through Station House Officer, Police Station, Masturi District Bilaspur Chhattisgarh. ---- **Petitioner**

Versus

- Dharmendra Pankaj S/o Manharan Pankaj Aged About 21 Years R/o Village Bhurkunda, Out Post Pachpedi, Police Station Masturi, District Bilaspur Chhattisgarh. ---- **Respondent**

For State :- Shri Neeraj Mehta, PL

**Hon'ble Shri Justice Prashant Kumar Mishra &
Hon'ble Shri Justice Gautam Chourdiya, JJ.**

Order On Board
By

Prashant Kumar Mishra, J.

23/07/2019

1. Heard.
2. On due consideration delay of 227 days in filing the appeal is condoned and accordingly, I.A. No.01 of 2019, application for condonation of delay in filing of appeal is allowed.
3. The trial Court has acquitted the accused of the charges under Sections 363, 366, 376 of I.P.C. and Section 4 of the Protection of Children from Sexual Offences Act, 2012.
4. While acquitting the accused, the trial Court has recorded the

finding that prosecutrix having moved to different places with the accused and has stayed with him for substantial length of period, she is a consenting party in the entire affair. It has also been held that the prosecution has not proved that the prosecutrix was less than 18 years of age at the time of incident. There is no birth certificate of the prosecutrix. Prosecution relies on the entries of the Dakhil Khareej Register of the school. The said entry was entered on the information of (PW-3) Smt. Dashoda Bai, mother of deceased, however, in paragraph 12 of her deposition, she stated that she is married for about 20-25 years and her eldest daughter was born after about 1-2 years of marriage and is presently aged about 18 years. This age of the eldest daughter was stated to be approximate age and not accurate based on any document. Similar is the case when she informed the school authorities about the D.O.B./ Age of the prosecutrix.

5. In our considered view, the trial Court has rightly held that there is no definite proof of the age of the prosecutrix that she was less than 18 years of age on the date of incident. Therefore, no case for grant of leave to appeal is made out.
6. Accordingly, the present CRMP deserves to be and is hereby dismissed.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge