

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1398 of 2018**

State of Chhattisgarh Through The Incharge Police Station
Bandaji, District Bastar, Chhattisgarh. ---- **Petitioner**

Versus

1. Ravishankar Sahare S/o Lahanuram Sahare Aged About 45 Years R/o Village Kumli, Police Station Bandaji, District Bastar, Chhattisgarh.
2. Arihant Kumar S/o Late Rambharose Wasnik Aged About 23 Years R/o Amawada, Kanker, District North Bastar, Kanker, Chhattisgarh.
3. Rakesh Kumar Patel S/o Late Veykat Raj Patel, Aged about 38 Years R/o Village Bhansi, District Dantewada, Chhattisgarh. ---- **Respondents**

For the State/petitioner : Mr. Raghvendra Verma, G.A.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board**17.12.2019**

1. Heard on I.A. No. 1, which is an application for condonation of delay in filing the instant Cr.M.P.
2. On due consideration, the application is allowed and the delay of 86 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(3) of Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 8th January, 2018 passed by Additional Sessions Judge (F.T.C.) & Special Judge under Protection of Children From Sexual Offences Act (in Short the 'POCSO Act'), 2012, Bastar at Jagdalpur (C.G.) in Special Sessions Case No.12/2016

wherein the said Court acquitted the respondents for commission of offences punishable under Section 341, 354, 294, 323, 506-B of the Indian Penal Code, 1860 and Section 8 of the POCSO Act, 2012.

5. In the present case, prosecutrix is PW-5. The case is based on statement of this witness because other witnesses are not eye witness account to the incident. Though, she deposed that respondents caught hold her, torn her cloth and made her lay down to outrage her modesty but she admitted in her cross examination that earlier one report was lodged by the respondent No.1 against male relative of the prosecutrix namely Sanjay Gajbhiye for outraging the modesty of a girl who is member of family of respondent No.1. This version is recorded in her written report i.e. Ex.P-11.
6. The trial Court elaborately discussed the entire evidence adduced by the prosecution and recorded finding that defence version may be a probability, because of earlier report lodged against male member of family of prosecutrix by the respondent No.1.
7. View taken by the trial Court is one of the plausible view, if two views are possible the view which is in favour of respondent/accused should be preferred.
8. In view of the legal position, it is not a case where interference of this Court is required with the judgment of the trial Court. It is also not a case where respondent

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

N.Mohle