

HIGH COURT OF CHHATTISGARH, BILASPUR

ACQA No.452 of 2019

- State Of Chhattisgarh, Through Station House Officer, Police Station - Sarangarh, District- Raigarh, Chhattisgarh

---- Applicant

Versus

- Ajay Sarthi, S/o Gangadhar Sarthi, Aged About 23 Years, R/o Village Bar, Police Station Sariya, District- Raigarh, Chhattisgarh

---- Respondent

For Applicant	Shri Avinash Choubey, PL
For Respondent	Shri Roop Naik, Advocate

Hon'ble Justice Shri Prashant Kumar Mishra
Hon'ble Justice Shri Gautam Chourdiya

Order On Board by Prashant Kumar Mishra J.

16/10/2019

1. This acquittal appeal has been preferred against the respondent's acquittal of the charges under Sections 363, 366 & 376 (2) of IPC and Section 6 of POCSO Act, 2012.
2. The Trial Court has acquitted the accused on the finding that the prosecution has not proved that the prosecutrix was less than 18 years of age on the date of incident. It is also found that the prosecutrix was a consenting party to the incident of rape.
3. On 27.09.2019, the respondent appeared before us duly identified by Shri Roop Naik, Advocate. It was stated that the respondent and the prosecutrix are now married and living happily as husband and wife. We had summoned a report from the concerned SHO as to the correctness of the statement made. The concerned SHO has

submitted a report duly accompanied with the statement of the parents of the respondent and the prosecutrix. While the parents of the prosecutrix are not aware about the marriage, the parents of the accused have admitted that they have married and are residing in their house. Aadhar Card of the prosecutrix has been filed, wherein her husband's name is mentioned as Ajay Sahis, the present respondent. In the record of the Trial Court, the Aadhar Card of the prosecutrix recovered during the investigation is also available. In the said Aadhar Card, her address was shown to be belonging to her native place, but in the fresh Aadhar Card, her address is also shown to be that of the village where the accused resides, meaning thereby that at the time of incident, she was residing with her parents but now she is residing with the respondent and is claiming that the respondent is her husband. She has also filed an affidavit before this Court mentioning her name as Savita Sahis, wife of Ajay Kumar Sahis.

4. Considering the quality of evidence as well as the subsequent development wherein the prosecutrix has married with the accused, we are not inclined to take any different view of the matter.
5. The acquittal appeal deserves to be and is hereby dismissed.
6. The Trial Court is directed to return the original documents recovered from the prosecutrix at the time of investigation, which is now part of the record of the Trial Court.
7. The Trial Court's record be sent back immediately.

Sd/-
Prashant Kumar Mishra
Judge

Sd/-
Gautam Chourdiya
Judge