

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1711 of 2019

State of Chhattisgarh, through its Station House Officer, Police
Station- Pendra, District- Bilaspur (C.G.)

---- Petitioner

Versus

Kabir Das, S/o Bechan Das, Aged About 30 Years, R/o Village-
Bartola, Bagra, Police Station- Pendra, District- Bilaspur (C.G.)

---- Respondent

For State/ Petitioner : Mr. Raghvendra Verma, Govt. Adv.
For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

21/11/2019

1. Heard on I.A. No. 01/2019, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC 132**, the delay of 392 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378 (3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 28.02.2018 passed by Special Additional Sessions Judge, Pendra, District- Bilaspur (C.G.) in Special Session Trial No. 24/2017, wherein the said court acquitted the respondent for

commission of offence under Sections 341 & 354 of IPC, 1860 & Section 12 of Protection of Children from Sexual Offences Act, 2012.

5. In the present case, prosecutrix is PW-1. The date of incident is 17.11.2017 and report was lodged on 19.11.2017 by Police Station- Pendraroad. In the said report, it is mentioned that one Vishram Singh Paikra and Niman Das are eye-witnesses account to the incident. Vishram Singh Paikra is maternal uncle of the complainant and Niman Das is brother of the complainant, but both have not cited as witnesses by the prosecution and not produced before the trial court for evidence. Both the witnesses were material witnesses, therefore, the trial court opined that when material witnesses are not examined, inference should be drawn against the prosecution that when both would have been examined, they would not have supported the prosecution case.
6. From evidence of Mahesh Das (PW-2) who is father of the prosecutrix, there was some dispute between Mahesh Das (PW-2) and the respondent regarding purchase and sale of land which may have a reason for making the complaint against the respondent.
7. The trial court elaborately discussed the entire evidence and recorded finding of acquittal. The finding recorded by the trial court is one of the plausible view and it is settled law that if two views are possible, the view which is favourable to the accused/respondent, should be accepted. After reassessing the

entire evidence, this Court has no reason to record contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.

8. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

Arun