

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1765 of 2019

- State of Chhattisgarh Through Its Station House Officer, Police Outpost Sonkyari, Police Station Sanna, District Jashpur Chhattisgarh.

---- Applicant

- Fulsai Ram Bhagat S/o Bunne Ram Bhagat Aged About 22 Years R/o Village Orkela, Police Outpost Sonkyari, Police Station Sanna, District Jashpur Chhattisgarh.

---- Respondent

For Applicant-State :- Shri K.K.Singh, G.A.

Hon'ble Shri Prashant Kumar Mishra

Hon'ble Shri Gautam Chourdiya, JJ.

Order on Board

By

Prashant Kumar Mishra, J

30/07/2019

1. Default having already been removed we have heard learned State counsel on I.A. No.1 as also on admission.
2. On due consideration, delay of 251 days in filing the Cr.M.P. is condoned. Accordingly, I.A. No.1 is allowed.

3. The trial Court has acquitted the accused of the charges under Section 376(2)(f) of IPC and Section 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.
4. The prosecutrix is aged about 22 years on the date of her examination before the trial Court i.e., on 20th March, 2018. As per her statement, accused's mother requested her mother to do household work in her house. During her stay in the house of the accused he used to commit sexual intercourse during night hours. She says that this incident has taken place about two years back. In **Para 10** of the cross examination she admits that her relation with the accused happened with her consent. She became pregnant and delivered a girl child on 18.10.2016. The FIR was lodged on 21.12.2016. Thus, it clearly appears that the FIR was delayed by more than 2 years and this also happened when the prosecutrix became pregnant and delivered baby girl. DNA test was conducted to ascertain as to whether the accused is a biological father of the child, however, it was found in the said test that accused is not the biological father of the child. This evidence is also a proof of the fact that the child was not born out of the sexual intercourse by the accused.
5. Since the prosecutrix was more than 18 years of age on the

date of incident and she admits to have sexual intercourse with her consent, no case for grant of leave to appeal is made out, accordingly, Cr.M.P. is dismissed.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge

Ankit