

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1828 of 2019

- State of Chhattisgarh Through - Police Station Pasta, District Balrampur Ramanujanj Chhattisgarh.

---- Applicant

Versus

- Sanjay Nagesia S/o Jokhan Nagesia Aged About 21 Years R/o Village Sitarampur Path, Police Station Pasta, District Balrampur Ramanujganj Chhattisgarh.

---- Respondent

For Applicant-State :- Shri Rajendra Tripathi, P.L.

Hon'ble Shri Prashant Kumar Mishra

Hon'ble Shri Gautam Chourdiya, JJ.

Order on Board

By

Prashant Kumar Mishra, J

07/08/2019

1. Heard.
2. On due consideration, delay of 74 days in filing the present Cr.M.P. is condoned. Accordingly, I.A. No.1 is allowed.
3. The trial Court has acquitted the accused of the charges under Sections 363 & 366 of IPC, Section 4 of Protection of Children from Sexual Offences (POCSO) Act, 2012 and in

alternate Sections 376, 506 and 323 of IPC.

4. The prosecution alleged that the accused abducted the prosecutrix and dragged her towards nearby forest and committed forcible sexual intercourse. They stayed inside the forest for the entire night. She returned to her house on the next morning and narrated the incident to her mother. Her date of birth, as per Dakhil Kharij Register is 10.07.1999, however, when examined in the Court on 23.01.2018, she has stated that her present age would be 20-21 years. Her mother has also agreed with the suggestion that the present age of the prosecutrix may be 20-21 years. PW-2, Amar Deepak Kujur, has proved the Dakhil Kharij Register but has not stated as to on what basis the entry of date of birth was recorded. The prosecutrix would further admit that at the time of entry into Class-I she was aged about 10-12 years and she has failed twice during her studies. The evidence in respect of age is thus not conclusive for recording of finding that she was less than 18 years of age on the date of incident.
5. The prosecutrix has further admitted that the incident happened during winter days and she stays with her entire family but did not shout when accused abducted her nor did she offer any resistance or shouting when she was taken to the forest across 20-25 houses in the village basti.

6. Though she has sustained some internal injuries but for that she admits that at the time of intercourse in the forest they were sleeping on a rough place.
7. Considering the nature and quality of evidence on record, we are not inclined to grant leave to appeal, accordingly, the present Cr.M.P. deserves to be and is hereby dismissed.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge

Ankit