

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1742 of 2018**

- State Of Chhattisgarh Through The Station House Officer, Out Post Manora, Police Station Jashpur District Jashpur Chhattisgarh

---- Petitioner

Versus

- Santosh Ram Bhagat S/o Naimanram, Aged About 22 Years Caste Uraon R/o Village Dahukona Sogada, Police Out Post Manora, Police Station Jashpur District Jashpur Chhattisgarh

---- Respondent

For Petitioner/StateMr. Santosh Bharat, Panel Lawyer

DB: **Hon'ble Mr. Justice Prashant Kumar Mishra &****Hon'ble Mr. Justice Gautam Chourdiya****Order On Board By****Prashant Kumar Mishra, J****1/7/2019**

1. On due consideration, IA No.1, an application for condonation of delay of 156 days in filing the application for leave to appeal against the judgment of acquittal, is allowed and the delay is condoned.
2. With the consent of learned State Counsel, the matter is heard on admission.

3. The trial Court vide its judgment dated 20.11.2017 passed in Special POSCO Case No.13/2017 has acquitted the accused from the charges under Sections 363, 366A, 376(2) (N) of IPC read with Section 6 of the Protection of Children from Sexual Offences Act, 2012.
4. The prosecution alleged that on 18.3.2017, the prosecutrix, aged about 16 years, was kidnapped, abducted and was subjected to forcible sexual intercourse by the accused on promise to marry. In her case diary statement as also in her statement under Section 164 of CrPC, the prosecutrix alleged commission of offence by the accused but when examined in the Court, she turned hostile and has not supported the case of the prosecution at any stage of her examination.
5. Similarly, father of the prosecutrix namely Dilaram (PW-3) has also turned hostile by not supporting any part of the prosecution case. Mother of the prosecutrix namely Smt. Sarti Bai (PW-4) has further not supported the prosecution case. Moreover, the trial Court has rightly found in para 25 of its judgment that the prosecution has not proved by cogent and reliable evidence that the prosecutrix was less than 18 years on the date of the incident.
6. Considering the nature of evidence adduced by the prosecution against the accused, we are satisfied that the trial Court has not committed any illegality in acquitting the accused and the trial

Court has taken a view, which is one of the possible views in the matter, therefore, no case for grant of leave to appeal is made out.

7. The CRMP is dismissed.

Sd/-

(Prashant Kumar Mishra)

Judge

Sd/-

(Gautam Chourdiya)

Judge

Shyna