

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2120 of 2019

- Applicant

1. Satyendra Sahni S/o Bhikham Sahni Aged About 23 Years
R/o Chainpatti, Police Station- Taryasujan, Uttar Pradesh.
2. Bahadur Sahni S/o Harihar Sahni Aged About 45 Years R/o
Chainpatti, Police Station- Taryasujan, Uttar Pradesh.

---- Respondents

For Applicant-State :- Shri Chitendra Singh, PL

Hon'ble Shri Prashant Kumar Mishra

Hon'ble Shri Gautam Chourdiya, JJ.

Order on Board

By

Prashant Kumar Mishra, J

23/09/2019

1. Heard.
2. On due consideration, delay of 11 days in filing the present Cr.M.P. is condoned. Accordingly, I.A. No.1 is allowed.
3. The trial Court has acquitted both the accused of the charges under Sections 363, 366-क, 376 of the IPC and

Section 6 of the Protection of Children from Sexual Offences, 2012.

4. The accused and the prosecutrix eloped and went to Sambalpur on motorcycle. Thereafter, they went to accused's village in the State of Uttar Pradesh and stayed there for about 15-20 days. The accused allegedly committed forcible sexual intercourse with the prosecutrix by extending threat to perform marriage. Her mother, Savita Sahu (PW-1), admits that she is not aware of the date of birth of the prosecutrix. She also admits that they have engaged a lawyer and is making statement as per advice of the lawyer. She also admits that the age of the prosecutrix was informed to the Police and at the time of admitting her to the school on approximate basis. She would further admit that the report was lodged because the prosecutrix and the accused belonged to different community.
5. In her statement, the prosecutrix (PW-3) admits that her elder sister, Lakshmi, is aged about 23 years and she is 2 years younger to her. Thus there is clear admission of the prosecutrix that she is 21 years of age. Reading her entire statement would suggest that the prosecutrix and the accused had a love affair for substantially long period of time and at the time of alleged abduction other members of the family were available in the house yet she did not protest or

offered resistance.

6. Her father, Ashok Sahu (PW-4) would also admit that he is not aware of the date of birth of the prosecutrix. He also admits that if the report would not have been lodged, the “Sahu Samaaj” would have punished them.
7. The entire evidence adduced by the prosecution would clearly suggest that there is no proof that the prosecutrix was less than 18 years of age at the time of incident. There being love affair between the accused and the prosecutrix, the finding recorded by the Trial Court that the prosecutrix appears to be a consenting party, is fully borne out from record.
8. Considering the nature and quality of evidence available on record, the present is not considered to be a fit case for grant of leave against the acquittal.
9. Accordingly, the present Cr.M.P. deserves to be and is hereby dismissed.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge

Ankit