

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2105 of 2018

- State Of Chhattisgarh Through Station House Officer, Police Station- Lormi, District- Mungeli, Chhattisgarh., District : Mungeli, Chhattisgarh

---- Petitioner

Versus

- Durgesh Rathore S/o Ramkumar Rathore Aged About 24 Years R/o Ward No. 12, Machgaon, Police Station- Lormi, District- Mungeli, Chhattisgarh., District : Mungeli, Chhattisgarh

---- Respondent

 For Petitioner : Mr. Raghvendra Verma, Govt. Advocate
 For Respondents : None

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

15.1.2019

1. Heard on I.A.No.1/2018, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application, same is allowed and delay of 426 days in filing the petition is hereby condoned.
3. Also heard on the application filed under Section 378(3) of the Code of Criminal Procedure, 1973 for grant of leave to appeal.
4. This petition is preferred under Section 378 (3) of the Code of Criminal Procedure, 1973 against order dated 20.4.2017, passed by Special Additional Sessions Judge, Mungeli, District Mungeli (C.G.) in Special S.T. No.20/2015, wherein the said court has acquitted the respondent for the charges under Sections 354, 354-A of the I.P.C. and Section 8 of the Protection of Children from Sexual Offences Act, 2012.
5. In the present case, the prosecutrix is PW3. To prove the age of the prosecutrix, one School Register was produced, but no one is examined before the trial Court as to who is the author of the

Register or who brought the prosecutrix to School for her admission. In absence of any sufficient evidence, the trial Court opined that the age of the prosecutrix is not proved to be below 18 years. After going through the record this Court has no reason to substitute a contrary finding. From the evidence of Kunjan Singh (PW4), Hetram (PW5) and Sangram (PW7), it is established that the prosecutrix and the respondent were in love affairs and both possessing photographs of each other, therefore, one Meeting was convened to settle their marriage, but since the respondent denied marrying, the report was lodged.

6. The trial Court after assessing the entire evidence came to the conclusion that it is not a case of any criminal act, but both the parties were in love affair and that is why the incident happened. The finding of the trial Court is based on one of the plausible views and when two views are possible, the view which is favourable to the accused/ respondent should be accepted. The finding of the trial Court is based on relevant material placed on record and same is not based on extraneous or irrelevant material.
7. After re-assessing the evidence, this Court has no reason to record a contrary finding. It is not a case where the respondent should be called for full consideration of the case. Accordingly, the prayer for leave to appeal is rejected.
8. Consequently, Cr.M.P. stands dismissed.

Sd/
(Ram Prasanna Sharma)
Judge