

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2205 of 2018**

State of Chhattisgarh, Through- P.S. Dharsiwa, District-Raipur (C.G.)

---- **Petitioner**

Versus

1. Dhananjay @ Raja, S/o Shri Suresh Verma, Aged About 20 Years, R/o Siltara, P.S. Dharsiwa, District- Raipur (C.G.)
2. Bhola Yadu, S/o Shri Dukhit Yadu, Aged About 21 Years, R/o Siltara, P.S. Dharsiwa, District- Raipur (C.G.)
3. Devnath Yadu, S/o Shri Punit Yadu, Aged About 24 Years, R/o Siltara, P.S. Dharsiwa, District- Raipur (C.G.)

---- **Respondents**

For State/ Petitioner : Mr. Raghvendra Verma, GA.

For Respondents : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

09/01/2019

1. Heard on I.A. No. 01/2018, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in **(1996) 3 SCC 132**, the delay of 69 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.
4. This petition is preferred against judgment dated 25.04.2018 passed by Special Judge (Protection of Children from Sexual Offences Act, 2012) (for short "the POCSO Act, 2012"), Raipur

(C.G.) in Special Criminal POCSO Case No. 206/2017, wherein the said court acquitted all the three respondents for commission of offence under Sections 354, 354(D), 294 of IPC, 1860 and Section 8 of the POCSO Act, 2012.

5. In the present case, prosecutrix is PW-1. As per version of the prosecutrix, respondent No. 2- Bhola Yadu caught hold her hand and pulled in weekly market of village- Siltara and respondent No. 3- Devnath Yadu was pulling her hair. They also teased her sister. As per version of the prosecutrix, the offence is committed in open market where a number of persons were present, but no one examined before the trial court to substantiate the charge and corroborate version of the prosecutrix.
6. Normally this kind of offence is committed in secrecy, but in the present case, as per version of both the witnesses, it is committed in open market, but no one supported version of these witnesses.
7. The trial court has elaborately discussed the entire evidence and opined that the story put-forth by the prosecution is not probable version, but it creates doubt and benefit goes to the respondents. It is settled law that if two views are possible the view which is favourable to the accused/respondent, should be accepted.
8. Looking to the factual and legal aspect of the matter, this Court has no reason to record contrary finding. It is not a case where respondents should be called for hearing again for full

consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.

9. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

Arun