

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2206 of 2019**

- State Of Chhattisgarh Through The Incharge, Police Station Deobhog, District- Gariyaband Chhattisgarh.

---- Petitioner

Versus

- Sitaram Soni S/o Tikchand Soni Aged About 21 Years R/o. Village Sonapali, P.S. Deobhog, District Gariyaband Chhattisgarh.

---- Respondent

For Respondent-State :- Shri Pawan Kesharwani, PL

**Hon'ble Shri Justice Prashant Kumar Mishra &
Hon'ble Shri Justice Gautam Chourdiya**

Order On Board**By****Prashant Kumar Mishra, J.****14/10/2019**

1. On due consideration delay of 361 days in filing of the Cr.M.P. is condoned. Accordingly, I.A. No.01 of 2019 application for condonation of delay is allowed.
2. The trial Court has acquitted the accused of the charges under Sections 363, 366, 376(2) of I.P.C. in alternative

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

3. The prosecutrix aged about 16 years eloped with the accused on a motor cycle while she was on her way to school on the date of incident. She was later on recovered from the house of relative of the accused. It is said that the accused committed forcible sexual intercourse in the forest when they were on way to the house of the relative of the accused.
4. In the cross-examination, the prosecutrix would admit that on the date of incident she did not carry her school bag nor did she inform her younger sister that she is going to attend *Mela* with the accused. She did not resist or protest when she was taken to the place of *Mela* or to the house of the relative of the accused. She would also state that she had traveled to different stations with the accused by train.
5. There is no cogent evidence and proof of the age of the prosecutrix. The trial Court has found that the prosecutrix was not sent for ossification test despite recommended by PW-8 Dr. Anju Sonwani. Similarly, the Dakhil Khareej Register of the school where the prosecutrix was studying has not been filed. Her mother has stated that her date of birth was informed to the school authorities on approximate

basis. Her father PW-11 Lingraj has stated that his marriage took place more than 18 years back and the prosecutrix was born after 01 year of marriage. Thus, the trial Court has rightly found that there is no reliable evidence to prove that the prosecutrix was less than 18 years of age on the date of incident.

6. Considering the statement of the prosecutrix and the evidence about her age, we are not inclined to grant leave to appeal against acquittal.

7. Accordingly, the Cr.M.P. deserves to be and is hereby dismissed.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge

Ayushi