

Offences Act, 2012 and Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

4. Prosecutrix was subjected to forcible sexual intercourse on promise to marry. They stayed together for about 5 months and thereafter the accused refused to marry her. It appears the prosecutrix was a consenting party, therefore, her age is a very significant factor to decide as to whether the accused has committed rape with a minor girl, however, the prosecution has failed to seize and prove the Kotwar Register nor the prosecutrix was sent for ossification test despite so recommended by the physician. The only document produced by the prosecution for proving the age, is the progress report of the school, however, the said evidence is not conclusive in nature. Therefore, in the absence of conclusive evidence regarding the age of the prosecutrix the trial Court has rightly found that the prosecution has failed to prove that the prosecutrix was less than 18 years of age on the date of incident.

5. No case for grant of leave to appeal is made out.

6. Accordingly, CRMP deserves to be and is hereby dismissed.

Sd/-
(Prashant Kumar Mishra)
Judge

Sd/-
(Gautam Chourdiya)
Judge