

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2490 of 2018**

- State Of Chhattisgarh Through Police Station Urla ,district Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Petitioner**Versus**

- Rajesh Yadav S/o Shri Rajkumar Yadav Aged About 19 Years R/o Darbanja ,police Station Phoolparas ,district ,madhubani Bihar ,present Address Rajendra Nagar ,police Station Urla District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondent

For Petitioner : Shri Ravish Verma, Govt. Advocate

Hon'ble Shri Justice Ram Prasanna Sharma
Order on Board

09.01.2019

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, the same is allowed and delay of 46 days in filing the petition is condoned.
3. Also heard on the application for grant of leave to appeal filed under Section 378 (3) Cr.P.C.
4. The instant Cr.M.P. has been filed seeking leave to appeal against the judgment dated 20th June, 2018, passed by the Special Sessions Judge under the Protection of Children from Sexual Offences Act, 2012, Raipur, District Raipur (CG) in Special Cr. POCSO Case No. 4/2018, wherein the

said Court has acquitted the respondent of the charges under Sections 354, 34, 506 Part II, 365 IPC, Sections 67, 67(A) of the Information Technology (Amended) Act, 2000 and under Section 8 of the Protection of Children from Sexual Offences, 2012.

5. In the present case prosecutrix is PW2. It alleged that the appellant/petitioner and some other co-accused took the prosecutrix in an Auto Rikshaw where one co-accused namely Sajjad Khan kissed her and other co-accused took the photograph from mobile. The photographs which were taken in the Auto Rikshaw were uploaded on face-book I.D. of one Vikky Reddy mentioning the same as contact number of call girl. The prosecutrix deposed before the trial Court that the respondent did not take her photograph and he did not upload the same on the face book account.

6. The defence side produced Exs. D1 and D2 which were letters written by the victim to the respondent and it appears from the letters that both were in love affair. The trial Court after evaluating the entire evidence came to the conclusion that the evidence adduced by both the sides should be kept on same footing and looking to the entire evidence benefit of doubt extended to the respondent.

7. After re-assessing the evidence, it appears that finding recording by the trial Court is based on relevant facts of the case and same is not based on irrelevant or extraneous material. It is a settled law that if two views are possible, the view which is favourable to the accused/respondent should be accepted.

8. Looking to the entire scenario, 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.

9. Consequently, Cr.M.P. stands dismissed.

Sd/

(Ram Prasanna Sharma)

Judge