

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.104 of 2019**

- State Of Chhattisgarh Through Its Station House Officer Police Station Dharsiwa District Raipur Chhattisgarh.

---- **Petitioner****Versus**

- Jitendra @ Nayak S/o Ramji Nishad Aged About 18 Years R/o Bazar Chowk Near School Dhaneli ,police Station Dharsinwa District Raipur Chhattisgarh.

---- **Respondent**-----
For the Petitioner/State : Shri VB Singh, Panel Lawyer

For the respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****18.3.2019.**

1. Heard on IA No.01/2019 for condonation of delay in filing the petition.

2. For the reasons mentioned in the application and the law laid down by Hon'ble Supreme Court in the matter of **State of Haryana Vs. Chandra Mani & Ors.** reported in **1996 3 SCC 132**, the delay of 60 days in filing the petition is hereby condoned.

3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.

4. This petition is preferred against the judgment of acquittal dated 13.7.2018 passed by Special Judge under the Protection of Children from Sexual Offences Act, 2012, (for short 'POCSO Act') Raipur (CG) in Special Criminal POCSO Case No.17/2018 wherein the said Court acquitted the respondent for the charges

under Sections 354D, 294, 323, 506 Part-II of the Indian Penal Code, 1860 and under Section 12 of the POCSO Act, 2012.

5. In the present case, prosecutrix (PW-1) and Subhash Verma (PW-2) are the eye witness account of the incident. Both the witnesses deposed that the respondent told the prosecutrix that he likes her, but she did not respond. After that there was quarrel between Subhash and the respondent. Subhash (PW-2) is the younger brother of the prosecutrix. Prosecutrix admitted in her cross-examination that the respondent crossed his vehicle to the cycle of Subhash that is why there was some quarrel between them and thereafter the respondent went away.

6. After assessing the evidence, the trial Court opined that it is not clear as to what were the filthy words uttered by the respondent, therefore, charge under Section 294 IPC is not established. Again there is lack of evidence of threatening, therefore, charge under Section 506 Part-II IPC is also not established. In absence of medical evidence, charge under Section 323 IPC is not established. From the evidence it is not clear that it is a case of stalking and offence under Section 354D IPC is not established because offence can be established only if one follows a woman repeatedly but that is not the case here because single incident is brought on light that too not convincing. Charges of harassment to the prosecutrix is also not established in absence of cogent evidence. Finding of the trial Court is based on relevant materials placed on record and the same is not based on extraneous or irrelevant materials. Therefore, it is not a case where the order of the trial Court is liable to interfered with. It is

not a case where the respondent should be called for full consideration of the matter.

7. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

Sd/-
(Ram Prasanna Sharma)
JUDGE