

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 222 of 2019**

State of Chhattisgarh, Through- Police Station- Mujgahan, District- Raipur (C.G.)

---- Petitioner**Versus**

Dwarika alias Manoj Sagarwanshi, S/o Kejuram Sagarwanshi, aged 38 years, R/o Village- Bhatgaon, Police Station- Mujgahan, District- Raipur (C.G.)

---- Respondent

For State/ Petitioner : Mr. A.N. Bhakta, Dy. A.G.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****03/04/2019**

1. Heard on application for grant of leave to appeal filed under Section 378 (3) of the Code of Criminal Procedure, 1973.
2. This petition is preferred against judgment dated 26.10.2018 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. 125/2018, wherein the said court acquitted the respondent for commission of offence under Section 354 of IPC, 1860 and Section 8 of the POCSO Act, 2012.
3. In the present case, prosecutrix is PW-1 who is daughter of the respondent. The respondent earlier married to mother of the prosecutrix who left the house of the respondent five year ago and thereafter, the respondent married to one woman namely Anita. It has come on record that relation with the prosecutrix and second wife of the respondent namely Anita was not cordial

that is why the prosecutrix was not willing to stay with the respondent and her step-mother namely Anita.

4. As per version of the prosecution, the respondent used criminal force against the prosecutrix to outrage her modesty and at the time of incident, her younger brother was present, but the prosecutrix and her younger brother did not inform anyone at the time of incident who were present in the house and near the house. The prosecutrix would have cried for help, the person near the locality would have reached to stop, but that is not done in the present case.
5. Looking to the strained relation between the parties, after remarriage of the respondent and looking to the conduct of the prosecutrix, the trial court opined that it is unsafe to act on statement of the prosecution.
6. The finding recorded by the trial court is one of the plausible view and it is settled law that if two views are possible, the view which is favourable to the accused/respondent, should be accepted. The trial court has elaborately discussed the entire evidence and recorded finding of acquittal and this Court has no reason to record contrary finding. It is not a case where respondent should be called for hearing again for full consideration of this petition. Accordingly, application for grant of leave to appeal is rejected.
7. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge