

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 220 of 2019

State of Chhattisgarh, Through: Station House Officer, Police
Station, Azad Chowk, Raipur, District- Raipur, (C.G.)

---- **Petitioner**

Versus

1. Shiva Yadav, Aged about 20 Years, R/o - Near Yadav Cycle Store, Ekta Gali, Aamapara, Raipur, District- Raipur, (C.G.)
2. Rakesh Ragde, Aged about 19 Years, S/o -Late Janak Kumar, R/o. - Jaikali Chowk, Bhoipara, Raipur, District- Raipur, (C.G.)

---- **Respondent**

For State/ Petitioner : Shri Vijay Bahadur Singh, Panel Lawyer.
For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

27/02/2019

1. Heard on I.A. No. 01/2019, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application and as per the law laid down by Hon'ble the Apex Court in the matter of **State of Haryana Vs. Chandra Mani & others** reported in (1996) 3 **SCC 132**, the delay of 39 days in filing the petition is condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(3) of the Code of Criminal Procedure, 1973.

4. This petition is preferred against judgment dated 19th July, 2018 passed by Special Judge under Protection of Children from Sexual Offences Act, 2012 Raipur (C.G.) in Special Criminal POCSO Case No. 50/2018, wherein the said court acquitted the respondent for commission of offence under Sections 341, 354 read with Section 34 of IPC and under Section 8 of the Protection of Children from Sexual Offences Act, 2012.
5. In the present case prosecutrix is (PW-1). Case of the prosecution rest on statement of prosecutrix because the other witnesses deposed about investigation after registration of FIR. As per version of prosecutrix respondent Shiva asked her that he is willing to talk with her for two minutes and apart from saying this word he did not act furthermore. Though there is a report by the prosecutrix against respondent Shiva that he caught her and kissed her but same is not the version of the prosecutrix before the trial court. From her statement it is not established that said respondent Shiva intentionally touched her and that act of touching is of a sexual nature and is without recipient's consent.
6. Looking to the entire evidence the trial court recorded finding acquittal. After assessment, this court has no reason to record contrary finding. It is not a case where respondents should be called for hearing again for full consideration of this petition.

7. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

N.Mohle