

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 235 of 2019**

- State Of Chhattisgarh Through Station House Officer, Police Station Saja, District Bemetara Chhattisgarh.

---- Applicant

Versus

- Uttam Kumar Thakur S/o Babulal Thakur Aged About 19 Years Caste Gond, R/o Bodka, Police Station Saja, District Bemetara Chhattisgarh.

---- Respondent

For Applicant :- Shri K.K. Singh, G.A.

**Hon'ble Shri Justice Prashant Kumar Mishra &
Hon'ble Shri Justice Gautam Chourdiya, JJ.**

Order On Board
By
Prashant Kumar Mishra, J.

07/08/2019

1. On due consideration delay of 03 days in filing of CrMP is condoned. Accordingly, I.A. No.01, application for condonation of delay in filing of CrMP is allowed.
2. The trial Court has acquitted the accused of the charges

under Section 376 of I.P.C. and Section 6 of the Protection of Children from Sexual Offences Act, 2012.

3. The accused has allegedly committed forcible sexual intercourse with the prosecutrix on promise to marry but thereafter disowned her when she became pregnant. She later on gave birth to a baby girl.
4. In her examination in the Court, the prosecutrix would admit in paragraph 9 and 10 that the accused has never committed forcible sexual intercourse meaning thereby that she was a consenting party to the act. She also denies that the sexual intercourse was committed on promise to marry. In respect of her age she admits in paragraph 8 of her cross-examination that her Date of Birth is recorded as 07.08.2000 in Article A1, the progress report of the school whereas in the Dakhil Khareej Register her Date of Birth is mentioned as 07.08.1999. She further admits that her actual date of birth may be 2-3 years prior to 07.08.1999.
5. The mother of the prosecutrix namely Parmila Netam (PW-1), would admit that the prosecutrix may be 18 years of age on the date of incident. She also admits that while admitting the prosecutrix in class 1 no certificate regarding proof of age was given to the school authorities and further that she may be 6-7 years of age at the time of admission to class 1.

She further denies any sexual relation between the accused and the prosecutrix.

6. Considering the inconclusive evidence regarding the age of the prosecutrix and her conduct in consenting to the act of sexual intercourse and thereafter not informing the incident or the affair to any of the family member, we are not inclined to grant leave to appeal.
7. In view of the above, the CrMP deserves to be and is hereby dismissed.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge

Ayushi