

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 232 of 2020

State of Chhattisgarh, Through Its Police Station Khairagarh, Crime
No. 133/19, District- Rajnandgaon (C.G.) ---- **Petitioner**

Versus

Rajeshwar Chandania, S/o Mansingh Chandania, Aged About 21
Years, R/o Satnami Nagar Yadav Chowk, Gondia, Police Station City
Kotwali Gondia, District- Gondia (Maharashtra) ---- **Respondent**

For State/ Petitioner : Mrs. Smita Jha, Panel Lawyer.
For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

04/03/2020

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 06.11.2019 passed by Additional Session Judge, Khairagarh, District- Rajnandgaon (C.G.) in Special Session Trial No. 06/2019, wherein the said court acquitted the respondent for charge under Sections 363 & 354(A) of IPC, 1860 and Section 8 of Protection of Children from Sexual Offences Act, 2012.
3. In the present case prosecutrix is PW-6. Ram Bai (PW-5) who is mother of the prosecutrix did not depose before the trial court regarding date of birth of the prosecutrix. Shyamratan Lahre (PW-7) who is father of the prosecutrix also did not depose regarding date of birth of the prosecutrix. Suman Verma (PW-2) is Teacher of Primary School, Dharampura who produced school certificate of the prosecutrix, but she stated in her cross-examination that entry is not made by her and she is not aware

of the fact as to how the entry is made and who is the person provided date of birth of the prosecutrix. No birth certificate was produced before the trial court.

4. The trial court recorded finding that on the date of incident i.e. on 05.04.2019, the prosecutrix is not proved to be below 19 years. She moved with the respondent from her village to Khairagarh then moved to Rajnandgaon Railway Station. Both were waiting for train towards Gondia and again, she sat with the respondent in bus.
5. The trial court elaborately discussed the entire evidence and recorded finding that the prosecutrix was consenting party in moving here and there with the respondent, therefore, any act of the respondent cannot be termed as criminal act. 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. After reassessing the entire evidence, it is not a case where any interference is required with the judgment of the trial court. It is also 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.
6. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge