

HIGH COURT OF CHHATTISGARH, BILASPUR

- State Of Chhattisgarh Through - Police Station - Udaipur, District - Surguja Chhattisgarh.

Versus

- Respondent

For Applicant-State :- Mr. Rajendra Tripathi, PL

Hon'ble Shri Justice Prashant Kumar Mishra
Hon'ble Shri Justice Gautam Chourdiya
Order On Board

By

Prashant Kumar Mishra, J.

26/02/2020

1. On due consideration delay of 141 days in filing of the Cr.M.P. is condoned. Accordingly, I.A. No.01, for condonation of delay is allowed.
2. The trial Court has acquitted the accused of the charges under Sections 363, 366, 376(2)(ढ) of the I.P.C. and Section 5(ढ) read with Section 6 of the Protection of Children from Sexual Offences Act, 2012.

3. Accused allegedly committed forcible sexual intercourse with the prosecutrix for about 2-4 years from the year 2013 to 08.05.2016, when the FIR was lodged. In the Dakhil Khareej Register her date of birth is mentioned as 21.09.1998, however, her father examined as PW-1 Mahendra would state that his daughter's present age would be more than 20 years. This witness was examined on 27.04.2017, thus, according to him his daughter was more than 18 years of age on the date of lodging of the FIR. This witness has otherwise not supported the prosecution by stating that the accused has not committed rape with his daughter. Similar statement has been made by mother of the prosecutrix examined as PW-5 Manmati.
4. The prosecutrix herself examined as PW-6 would initially support the prosecution but in her cross-examination from paragraph 5 onwards she would deny the incident.
5. Considering the quality of evidence, no case for grant of leave to appeal against acquittal is made out.
6. Accordingly, the Cr.M.P. deserves to be and is hereby dismissed.

SD/-
(Prashant Kumar Mishra)
Judge

SD/-
(Gautam Chourdiya)
Judge