

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 618 of 2019

State of Chhattisgarh, Through: Station House Officer, Police Station Pakhanjur, District- North Bastar Kanker (C.G.)

---- Petitioner

Versus

Budhdeo Sardar, S/o Ranjeet Sardar, Aged About 20 Years, R/o Village- P.V. 29, Police Station Pakhanjur, District- North Bastar Kanker (C.G.)

---- Respondent

For State/ Petitioner : Mr. Dinesh Tiwari, Dy. Govt. Adv.

For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

27/02/2020

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 215 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 16.04.2018 passed by Special Judge [Protection of Children from Sexual Offences Act, 2012 (for short "the Act, 2012")],

Bhanupratappur, District- North Bastar Kanker (C.G.) in Special Criminal Case (POCSO Act) No. 42/2017, wherein the said court acquitted the respondent for charge under Sections 363 & 366(A) of IPC, 1860 and Section 4 & 6 read with Section 17 of the Act, 2012.

5. In the present case prosecutrix is PW-1. Gopal Vishwas (PW-2) who is father of the prosecutrix deposed before the trial court that age of the prosecutrix is 19 years and Smt. Sudha Vishwas (PW-3) who is mother of the prosecutrix deposed before the trial court that age of the prosecutrix is 18 years. Both have not deposed the date of birth of the prosecutrix. Principal- Dhananjay Sinha (PW-5) deposed regarding entry on school register, but he is not aware of the fact as to how entry is made in the school register and on whose information, the same is recorded. The trial court after evaluating the evidence recorded finding that age of the prosecutrix is not proved to be below 18 years on the date of incident i.e. on 08.03.2017.
6. The prosecutrix (PW-1) has not identified the respondent. There is nothing in her statement that she was taken by the respondent for seducing her to illicit intercourse. As the prosecutrix is not minor, charges under the Act, 2012 are also not established.
7. The trial court elaborately discussed the entire evidence and recorded finding of acquittal. 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.

8. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge

Arun