

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 1865 of 2018

- State Of Chhattisgarh Through Police Station Sariya District Raigarh Chhattisgarh

---- Petitioner

Versus

- Pardeshi Sarthi S/o Suruti Sarthi Aged About 25 Years R/o Village Jewara Police Station Sarangarh District Raigarh (CG) Presently R/o Village Tetala Police Station Pusaur District Raigarh Chhattisgarh

---- Respondent

For Petitioner/StateMr. Neeraj Mehta, Panel Lawyer

DB: Hon'ble Mr. Justice Prashant Kumar Mishra &**Hon'ble Mr. Justice Gautam Chourdiya****Order On Board by Prashant Kumar Mishra, J.****10/2/2020**

1. Heard.

2. The trial Court has acquitted the accused of the charges under

Sections 363, 366 & 376 (2) of IPC and Section 6 of the Protection of Children from Sexual offences Act, 2012 vide judgment dated 30.5.2018 in Special Criminal Case (POSCO Act) No.15/2017

3. The prosecutrix would clearly admit that she is in love with the accused, therefore, they eloped together and married at a temple and thereafter, they started residing together as a married couple. The Dakhil-Kharij register of her entry into Class-I has not been produced. The Dakhil Kharij register-Ex.P/16C was in respect of Class XI, which, in turn, was the basis of entry of her age in the Transfer Certificate of her previous school showing her date of birth as 22.7.2000.
4. The learned trial Court has rightly observed that the prosecutrix has not filed any document as to when she was admitted in Class I and who informed the school authorities about the date of birth, as there is no document in this regard with her mother as stated so in her deposition. The trial Court has also observed that the Birth Information Register -Article A-1 has not been proved by producing the original register. PW-17 Dr. Sangeeta Kalar, who examined the prosecutrix, had advised for Radiological examination to assess the age of the prosecutrix but she was not subjected to such examination.
5. Considering the evidence on record, it appears, the trial Court's finding that the prosecution has failed to prove that the prosecutrix was less than 18 years of age on the date of the

incident, is one probable view in the matter.

6. Therefore, considering the law laid down by the Supreme Court to the effect that when the trial Court has taken one probable view in the matter, the High Court while considering an appeal against acquittal is not entitled to take a different view, merely because, the same view is one probable in the state of evidence on record (See **State of M.P. Vs. Bachhudas alias Balram and others, (2007) 9 SCC 135**). No case for grant of leave to appeal is made out.

7. The CRMP is dismissed.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Gautam Chourdiya)
Judge