

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No.2073 of 2019

State Of Chhattisgarh Through - Police Station Birra, District
Janjgir Champa Chhattisgarh

---- Petitioner

Versus

Gouri Shankar Sahu S/o Narayan Sahu Aged About 35 Years
R/o Village Milpara Dhivara, Police Station Birra, District -
Janjgir Champa Chhattisgarh

---- Respondent

For Petitioner/State : Mr. Raghvendra Verma, G.A.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

15/01/2020

1. Heard on I.A. No. 01/19, which is an application for condonation of delay in filing the instant petition.
2. For the reason mentioned in the application delay of 39 days in filing this instant petition is hereby 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 directed against judgment dated 15.04.2019 passed by the Special Judge (Atrocities), Janjgir, District- Janjgir Champa, C.G., in Special Criminal Case No.05/2018 wherein the said Court acquitted the respondent for charge

punishable under Section 354 of IPC, 1860 and under Section 8 of Protection of Children from Sexual Offences Act, 2012.

5. In the present case, the prosecutrix is (P.W.-1) and apart from the prosecutrix, prosecution examined Santosh Kumar (P.W.-2), Kumari Nisha Verma (P.W.-3) , Bimla (P.W.-4) and Manoj Kumar Kashyap (P.W.-5). From their evidence, it is established that applicant caught hold hand of the prosecutrix and prior to that he also run behind Kumari Nisha Kashyap (P.W.-3). After evaluating the independent evidence, the trial Court recorded finding that there is nothing on record that suggest any sexual advancement on the part of the appellant which is the basic ingredient for commission of offence under Section 354 of I.P.C. and Section 8 of POCSO Act, 2012.
6. For commission of offence regarding outrage of modesty, it has to be established that any advancement was done which relates to sexual assault but that part of the evidence is missing in the evidence of all the witnesses.
7. View that is taken by the trial Court is one of the plausible view and it is settled law that if view taken by the trial Court is plausible and if two views are possible, the view which is in favour of respondent should be preferred. In view of the above, it is not a case where interference of this Court is required that the judgment of trial Court, it is not a fit case where respondent should be called for hearing again for full consideration of this petition.

8. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

Sd/-

(Ram Prasanna Sharma)
Judge

Monika