

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2088 of 2018

State of Chhattisgarh Through-Police Station Patna, District Korea
Chhattisgarh. **---- Petitioner**

Versus

Om Prakash S/o Samay Lal, Aged about- 20 years, R/o Village
Karji Police Station Patna District Korea Chhattisgarh.

---- Respondent

For State petitioner : Mr. Aman Kesharwani, P.L.

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board

18.02.2020

1. Heard on I.A. No.1/2018, which is an application for condonation of delay in filing the instant petition.
2. On due consideration, the application is allowed and the delay of 147 days in filing the instant petition is hereby condoned.
3. Also heard on application for grant of leave to appeal filed under Section 378(3) of Cr.P.C.
4. This petition is preferred against the judgment dated 23rd of January, 2018, passed by learned Additional Sessions Judge(F.T.C.) and Special Judge under POCSO Act, 2012 Baikunthpur, District- Korea (C.G.), in Special Criminal Case No.13/2017 wherein the said Court has acquitted the respondents for commission of offence under Sections 452, 354, 354(A) & 323 of Indian Penal Code, 1860 and Section 8 of POCSO Act, 2012.
5. In the present case, the only eye witness account to the incident is prosecutrix (PW-1). The prosecution adduced the

evidence of school register for establishing age of the prosecutrix. The father of the prosecutrix deposed before the trial Court that he recorded date of birth out of imagination and no entry was made after birth, in birth register. Taking into consideration, statement of father, the trial Court opined that entry made in the school register is not the correct date of birth and therefore, it is not proved that prosecutrix was minor on the date of incident that is 6th of August, 2017.

6. The prosecutrix deposed before the trial Court that respondent pressed her neck on the date of incident and after leading question by the prosecution side, she deposed differently, she deposed that when she informed the police officer regarding pressing her neck by the respondent, the officer said that the case will not be made out by her version thereafter, she lodged complaint as per dictation of the police officer. This witness again deposed that whatever mentioned in Ex.P-1 is not true version of the incident.
7. Taking into consideration, the entire evidence, the trial Court recorded finding that evidence of the prosecutrix is not dependable and any other evidence is not sufficient to prove guilt of the respondent, therefore, it is a case of acquittal. After going through the entire records, it is not a case where interference of this Court 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.

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

N.Mohle