

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 154 of 2020

State of Chhattisgarh, Through Its Station House Officer, Police
Station- Nawagarh, District- Bemetara (C.G.)

---- Petitioner

Versus

Taksha Kumar Baghel, S/o Jeevanlal Baghel, Aged About 18 Years
03 Months, R/o Village- Jujhalbhatha, Police Station- Fastarpur,
District- Mungeli (C.G.)

Presently Residing at Tilkapara, Ward No. 08, Ramavtar
Dhritlahare's House, Police Station- Nawagarh, District- Bemetara
(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

02/03/2020

1. Heard on application for grant of leave to appeal filed under
Section 378 (3) of the Code of Criminal Procedure, 1973.
2. This petition is preferred against judgment dated 21.10.2019
passed by Special Judge [Protection of Children from Sexual
Offences Act, 2012 (for short "the Act, 2012")], Bemetara
(C.G.) in Special Criminal Case No. 40/2018, wherein the said
court acquitted the respondent for charge under Section 354
of IPC, 1860 and Section 8 of the Act, 2012.
3. In the present case prosecutrix is PW-2. As per version of the
prosecutrix, some altercation took place between her and the
respondent that is why matter was reported. Sarojani Kurre
(PW-1), Santosh Kumar Kurre (PW-3), Vimal Kumar Dhritlahare

(PW-4) & Ubaran Das Chelak (PW-5) have deposed before the trial court regarding some altercation between the prosecutrix and the respondent.

4. For commission of offence under Section 354 of IPC, it has to be established that assault or criminal force was used by the respondent to outrage modesty of the prosecutrix. Again, for commission of offence under Section 8 of the Act, 2012, the prosecution is under obligation to establish that sexual assault as defined in Section 7 the Act, 2012 is committed by the respondent. Section 7 of the Act, 2012 may be read as under:-

“7. Sexual Assault.- Whoever, with sexual intent touches the vagina, penis, anus or breast of the child or makes the child touch the vagina, penis, anus or breast of such person or any other person, or does any other act with sexual intent which involves physical contact without penetration is said to commit sexual assault.”

5. From the entire evidence, ingredients of both the offences are lacking that is why the trial court recorded finding of acquittal. After going through the record, 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.
6. Consequently, the petition stands dismissed at motion stage itself.

Sd/-
(Ram Prasanna Sharma)
Judge