

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURCRMP No. 149 of 2020

- State of Chhattisgarh, through- Police Station- Kamleshwarpur,  
District- Surguja (C.G.) ----- **Petitioner**

**Versus**

1. Abhijeet Barwa, S/o- Ramdhani Barwa, Aged about- 19 years,
2. Sikandar Kujur, S/o- Tage @ Ramesh Kujur, Aged about- 19 years,

Both respondents are R/o- village- Paiga, P.S.- Kamleshwarpur,  
District- Surguja (C.G.) ----- **Respondents**

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For State/Petitioner : Shri Aman Kesharwani, Panel Lawyer.  
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Hon'ble Shri Justice Ram Prasanna SharmaOrder on Board02/03/2020

1. Heard on I.A. No. 01/2020, which is an application for condonation of delay in filing the petition.
2. On due consideration and for the reasons mentioned in the application, the application is allowed and the delay of 93 days in filing the instant 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 the judgment dated 20<sup>th</sup> June, 2019 passed by Additional Sessions Judge (F.T.C.), Surguja (Ambikapur) (C.G.) in Special Criminal Case (POCSO) No. 65/2016 wherein the said Court acquitted both the respondents for charge under Sections 354 read with Section 34, 354-B read with Section 34 and 506 Part-II of the Indian Penal Code (for short "the IPC"), 1860 and under Section 9(G) read

with Section 10 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

5. In the present case, the prosecutrix is PW-3. She did not depose anything against the respondents regarding any criminal act or assault or criminal force with intent to outrage her modesty. Again, there is nothing on record that any assault or criminal force is made against her with intent to disrobe her. There is also nothing on the record regarding sexual assault against the said prosecutrix. The other witnesses have not supported the version of the prosecution and they are not eye witnesses account to the incident.
6. The trial court elaborately discussed the entire evidence and recorded finding that the charges levelled against the respondents are not established. The finding of the trial Court is one of the plausible view. It is settled law that if two views are possible, the view which is favourable to the respondents/accused should be accepted. After reassessing the entire evidence, this Court has no reason to record contrary finding regarding commission of the offence. It is not a case where respondents should be called for hearing again of this petition.
7. Accordingly, application for grant of leave to appeal is rejected. Consequently, the petition stands dismissed at motion stage itself.

**Sd/-**

**(Ram Prasanna Sharma)  
Judge**