

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1279 of 2020

State Of Chhattisgarh Through The Police Chowki Kedma Police Station
Udaipur, District Surguja Chhattisgarh, District : Surguja (Ambikapur),
Chhattisgarh

---- Petitioner

Versus

Heera Sai Bargah S/o Bhujang Bargah, Aged About 19 Years R/o Village
Khujhi, Chowki- Kedma, Police Station Udaipur, District Surguja
Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Respondent

For State/Petitioner : Smt. Fouzia Mirza, Addl. A.G.

**D.B. :Hon'ble Shri Justice Manindra Mohan Shrivastava &
Hon'ble Smt. Justice Vimla Singh Kapoor**

Order On Board

19/01/2021

1. Heard on prayer for grant of leave to appeal.
2. Learned counsel for the State-petitioner would argue that in the present case, the prosecution led documentary evidence with regard to age of the prosecutrix to prove that on the date of commission of offence, the prosecutrix was less than 18 years of age and, therefore, even if the other finding regarding consensual sexual intercourse is accepted, it would be immaterial and it would amount to commission of offence and, therefore, the respondent-accused was liable to be convicted.
3. Having gone through the impugned judgment and the evidence led by the prosecution particularly the evidence of the prosecutrix, her mother and also considering the documentary evidence with regard to age, we find that learned trial Court has acquitted the accused-respondent giving him benefit of doubt taking into consideration the evidence of the prosecutrix that she

had an affair with the accused and that if anybody in the village would not have seen the incident, the matter would not have been reported in the police. Learned trial Court, faced with the different versions with regard to age of the prosecutrix, one given in the documentary evidence and the other by the mother of the prosecutrix and prosecutrix herself, has recorded finding that the prosecution has failed to prove that the prosecutrix was minor on the date of alleged commission of offence. The finding recorded by learned trial Court cannot be said to be either perverse or suffering from any patent illegality and a plausible view has been taken. Therefore, there is no scope of interference with the judgment of learned trial Court given the limited scope of interference against the judgment of acquittal.

4. The petition (Cr.M.P.) is accordingly dismissed.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Sd/-
(Vimla Singh Kapoor)
Judge