

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1488 of 2020**

- State of Chhattisgarh, Through - The Police Station Fingeshwar, District- Gariyaband, Chhattisgarh.

---- Petitioner**Versus**

- Hemsingh Tarak S/o Khorbahara Ram Tarak Aged About 24 Years R/o Village- Jamgaon, P.S. Fingeshwar, District- Gariyaband, Chhattisgarh.

---- Respondent

For State/Petitioner

: Mr. Amit Singh Chouhan, P.L.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****Date : 24/11/2021**

1. Heard on application for grant of leave to appeal under Section 378 (3) of Cr.P.C. as well as on admission.
2. This Cr.M.P. has been preferred against the judgment of acquittal dated 13.03.2020 passed by learned Additional Sessions Judge (FTC), Special Court (POCSO & Rape Cases), Gariyaband (C.G.) in POCSO Case No. 25/2020 whereby respondent/accused has been acquitted of the charge under Sections 341, 354, 354(a) of IPC and Section 12 of the Protection of Children from Sexual Offences Act, 2012.
3. Brief facts of the case are that on 03.08.2017 at about 9:45 hours when the prosecutrix/victim was going to school, on the way between village Rajkatti and Jamgaon, accused stopped her with intention to outrage her modesty and committed sexual assault upon her by pulling the kurta and dupatta and touching her body. After usual investigation, charge under Sections 341, 354, 354(a) of IPC and Section 12 of the Protection of Children from Sexual Offences Act was framed and the same was read and explained to the respondent/accused, which he denied and his plea was recorded.
4. To substantiate the charges, the prosecution has examined as many

as 14 witnesses. Statement of the respondent/accused was also recorded under Section 313 of the Code of Criminal Procedure in which he denied the circumstances appearing against him in the prosecution case, pleaded innocence and false implication in the case.

5. After considering the evidence adduced by the prosecution, the trial Court has acquitted the respondent/accused of the charges levelled against him. Hence, this present petition.

6. Learned Counsel for the State/petitioner would submit that from the ocular and documentary evidence adduced by the prosecution, the alleged charge has been proved against the respondent/accused, despite that learned court below unnecessarily doubting the credibility on the evidence available on record extended the benefit of doubt by acquitting the respondent/accused, which is perverse and unsustainable in law.

7. I have heard learned counsel appearing for the State /petitioner and perused the record of court below including judgment impugned with utmost circumspection.

8. The trial Court has elaborately discussed the entire evidence and recorded finding of acquittal. After going through the statements of prosecutrix (PW-5) and other important witnesses namely Radhika Sahu (PW-2), Bhama Sahu (PW-3), Smt. Bharti Sahu (PW-6), Smt. Chandika Sahu (PW-7), Ku. Geetanjali Chakradhari (PW-8) and Smt. Amoliya (Dhruv) PW-9, who have not supported the case of prosecution. The prosecutrix has gone to the extent of stating that she does not even know the accused and in the cross-examination she has clearly stated that nothing was done to her by the accused. As the prosecutrix herself has not remained firm and has ended up by stating that she does not even know the accused and he has not done anything, the finding of the learned trial Court that the prosecution case is not proved beyond reasonable doubt, does not suffer from any patent illegality or perversity, this Court is of the view that judgment of acquittal passed by the learned trial Court does not require any interference by this Court.

9. Accordingly, the application for leave to appeal is rejected. Consequently, the Cr.M.P. stands dismissed.

**Sd/-
(Rajani Dubey)
JUDGE**