

(2019) 02 CHH CK 0213

Chhattisgarh High Court

Case No: Criminal Misc. Petition No. 76 Of 2019

State Of Chhattisgarh

APPELLANT

Vs

Ajeet Sarthi

RESPONDENT

Date of Decision: Feb. 14, 2019

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 378(3)
- Indian Penal Code, 1860 - Section 354D(1), 354D(2)
- Protection Of Children From Sexual Offences Act, 2012 - Section 12

Hon'ble Judges: Ram Prasanna Sharma, J

Bench: Single Bench

Advocate: VB Singh

Final Decision: Dismissed

Judgement

Ram Prasanna Sharma, J

1. Heard on IA No.01/2019 for condonation of delay in filing the petition.
2. On due consideration, the application is allowed and the delay of 70 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(3) of CrPC.
4. This petition is preferred against the judgment of acquittal dated 30.6.2018 passed by Special Judge under the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act')/Additional Sessions Judge, Sarangarh, Distt. Raigarh (CG) in Special POCSO Case No.09/2017 wherein the said Court acquitted the respondent for the charges under Section 354D(1) defined under Section 354D(2) of the Indian Penal Code and

under Section 12 of the POCSO Act, 2012.

5. In the present case, prosecutrix is PW-4. Though she deposed before the trial Court in her examination-in-chief that the appellant followed her and contacted her and also tried to interact repeatedly, but in her cross-examination she deviated from her earlier version stated in examination-in-chief and deposed that she and the respondent had some conversation only. Though Karan Sarthi (PW-2) deposed before the trial Court that the respondent caught hold the hands of the prosecutrix with bad intention but the prosecutrix did not depose that Karan Sarthi (PW-2) was present at the time of the incident. Looking to the contradictory evidence, the trial court opined that the evidence of Karan Sarthi (PW-2) is not reliable to be accepted. Again version of the prosecutrix is not firm and looking to her different version at different stages the trial Court did not rely on the version of the prosecutrix.

6. After reassessing the entire evidence, this Court has no reason to record a contrary finding. It is not a case where the respondent should be called for full consideration of the matter.

7. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.