
(2018) 06 CHH CK 0084

Chhattisgarh High Court

Case No: Criminal Miscellaneous Petition (CRMP) No. 959 Of 2018

State Of Chhattisgarh

APPELLANT

Vs

Vikas Thakur

RESPONDENT

Date of Decision: June 19, 2018

Acts Referred:

- Indian Penal Code, 1860 - Section 363, 366, 376
- Code Of Criminal Procedure, 1973 - Section 378(3)
- Protection Of Children From Sexual Offences Act, 2012 - Section 6

Hon'ble Judges: Pritinker Diwaker, J; Gautam Choradiya, J

Bench: Division Bench

Advocate: Adil Minhaj

Final Decision: Dismissed

Judgement

Pritinker Diwaker, J

1. The default as pointed out by the office is overruled .
2. Heard on I.A.No.01/2017, application for condonation of delay in filing the Cr.M.P.
3. For the reasons mentioned in the application, the same is allowed and delay in filing the Cr.M.P. is condoned.
4. Also heard on admission.
5. Present CRMP has been filed by the State seeking leave to appeal under Section 378 (3) of the Code of Criminal Procedure, 1973 assailing the judgment and order dated 26.04.2017 passed by II Additional Sessions Judge, District Raigarh in POCSO ACT 2012/86/2015 acquitting the accused/respondent of the charges under Sections 363, 366, 376 IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 (for

short 'the Act).

6. As per the prosecution case, on 16.03.2015 FIR (Ex.P/1) was lodged by Phool Bai (PW/1) alleging in it that the prosecutrix aged 17 year did not

return from the market and she appears to have been abducted by someone. Based on this FIR (Ex.P/1), offence under Section 363 IPC was

registered against unknown person. Subsequently, on 30.07.2015 the prosecutrix was recovered from the custody of respondent/accused and later he

was tried for the offence under Sections 363, 366, 376 IPC and Section 6 of the Act.

7. In the Court, Prosecutrix (PW/2) has stated that she was living in the house of her aunt and she came in contact with the respondent/accused.

According to her, she married respondent/accused and were living as husband and wife but she was taken into custody while living with

respondent/accused. Later the prosecutrix was declared hostile. In para 5 of cross-examination, the prosecutrix has categorically stated that at present

she is 21 year of age and at the time of marriage she was 19 year of age.

8. Considering the statement of the prosecutrix and other evidence available on record, the trial Court has arrived at a conclusion that the

respondent/accused cannot be convicted for any offence and thus acquitted him extending benefit of doubt. The view taken by the trial Court appears

to be justified and one of the possible view. The prosecution thus utterly failed in proving its case beyond reasonable doubt and the trial Court has been

fully justified in recording the finding of acquittal which is based on proper appreciation of evidence available on record. That apart, the settled legal

position that if two reasonable conclusions are possible on the basis of evidence on record the appellate Court should not disturb the finding of acquittal

recorded by the trial Court. Furthermore, in case of appeal against the acquittal the scope is very limited and interference can only be made if finding

recorded by the trial Court is highly perverse or arrived at by ignoring the relevant material and considering the irrelevant ones. In the present case, no

such circumstance is there warranting interference by this Court.

9. Accordingly, the CRMP preferred by the State/applicant is bereft of any substance, the same is liable to be and is hereby dismissed at the

admission stage itself.