

(2019) 07 CHH CK 0142

In the Chhattisgarh High Court

Case No : Criminal Miscellaneous Petition (CRMP) No. 1413 Of 2019

State Of Chhattisgarh

APPELLANT

Vs

Dharmendra Pankaj

RESPONDENT

Date of Decision : 23-07-2019

Acts Referred:

Indian Penal Code, 1860 — Section 363, 366, 376
Protection Of Children From Sexual Offences Act, 2012 — Section 4

Citation : (2019) 07 CHH CK 0142

Hon'ble Judges : Prashant Kumar Mishra, J;Gautam Chourdiya, J

Bench : Division Bench

Advocate : Neeraj Mehta

Final Decision : Dismissed

Judgement

Prashant Kumar Mishra, J

1. Heard.
2. On due consideration delay of 227 days in filing the appeal is condoned and accordingly, I.A. No.01 of 2019, application for condonation of delay in filing of appeal is allowed.
3. The trial Court has acquitted the accused of the charges under Sections 363, 366, 376 of I.P.C. and Section 4 of the Protection of Children from Sexual Offences Act, 2012.
4. While acquitting the accused, the trial Court has recorded the CRMP No. 1413 of 2019 finding that prosecutrix having moved to different places with the accused and has stayed with him for substantial length of period, she is a consenting party in the entire affair. It has also been held that the prosecution has not proved that the prosecutrix was less than 18 years of age at the time of incident. There is no birth certificate of the prosecutrix. Prosecution relies on the entries of the Dakhil Khareej Register of the school. The said entry was entered

on the information of (PW-3) Smt. Dashoda Bai, mother of deceased, however, in paragraph 12 of her deposition, she stated that she is married for about 20-25 years and her eldest daughter was born after about 1-2 years of marriage and is presently aged about 18 years. This age of the eldest daughter was stated to be approximate age and not accurate based on any document. Similar is the case when she informed the school authorities about the D.O.B./ Age of the prosecutrix.

5. In our considered view, the trial Court has rightly held that there is no definite proof of the age of the prosecutrix that she was less than 18 years of age on the date of incident. Therefore, no case for grant of leave to appeal is made out.

6. Accordingly, the present CRMP deserves to be and is hereby dismissed.