



2026:CGHC:3233-DB



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 67 of 2023

- XYZ

... Appellant/Victim

versus

1. State of Chhattisgarh, Through Station House Officer, Police Station- Bemetara, District- Bemetara, Chhattisgarh.
2. Tikesh @ Teeku Sahu, S/o Omprakash Sahu, aged about 18 Years, R/o Near Durga Mandir, Shankar Nagar, Chhawani, Bhilai, P.S. Jamul, District- Durg, Chattisgarh.
3. Kishan Sahu, S/o Chandrahas Sahu, aged about 30 Years,
4. Vishnu Sahu, S/o Santosh Sahu, aged about 19 Years,
5. Shrawan @ Tikeshwar Sahu, S/o Jalesh Sahu, aged about 20 Years, Accused/respondent Nos.3 to 5 are R/o Village- Betar, Police Chowki- Khandsara, Police Station and District- Bemetara, Chhattisgarh

... Respondents

For Appellant	:	Ms. Pratibha Sahu, Advocate on behalf of Mr. R.K. Pali, Advocate.
For Respondent No.1/State	:	Mr. Krishna Gopal Yadav, Deputy Government Advocate.

Hon'ble Smt. Justice Rajani Dubey &

Hon'ble Shri Justice Radhakishan Agrawal

Judgment on Board

20.01.2026

Per Radhakishan Agrawal, J.



Heard on admission.

1. This acquittal appeal preferred by the appellant/victim arises out of the judgment dated 15.11.2022 passed by the learned Additional Sessions Judge (F.T.S.C.), (POCSO Act) Bemetara, District Bemetara (C.G.), in Sessions Case No. 23/2022, whereby the learned trial Court acquitted accused/respondent No.2 – Tikesh @ Teeku Sahu of the offences punishable under Sections 363, 366(A) read with Section 34 of the Indian Penal Code (for short, “IPC”), Section 376(2)(j)(n) of IPC and Sections 5(l)/6 of the Protection of Children from Sexual Offences Act, 2012 (for short, “the Act, 2012”); accused/respondent Nos.3 and 4 – Kishan Sahu and Vishu Sahu of the offences punishable under Sections 363, 366(A) read with Section 34 of the IPC and Section 376-D of the IPC and Section 5(g)/6 of the Act, 2012; and accused/respondent No.5 – Shravan @ Tikeshwar Sahu of the offences punishable under Sections 450, 376(2)(j) and 506 Part II of IPC and Section 4 of the Act, 2012.
2. Case of the prosecution, in brief, is that on 17.03.2022, grand-father of the victim (PW-1) lodged a report at Police Outpost Khandsara, Police Station Bemetara, stating that his minor grand-daughter/victim, aged 17 years and 05 months, had gone missing during the night of 16/17.03.2022. At about 1:00 a.m., he found the door of her room as well as the door leading outside was open and the victim was absent. Despite searching the locality, she could not be traced. He suspected that accused/respondent No.2 – Tikesh @ Teeku Sahu, a resident of Bhilai, had enticed her away.
3. During investigation, victim was recovered from the house of accused/respondent No.2 – Tikesh @ Teeku Sahu vide Ex.P-6 and her



statement was recorded, wherein she alleged that respondent No.2- Tikesh along with respondent Nos.3 to 5 – Kishan Sahu, Vishnu Sahu and Shravan @ Tikeshwar Sahu had lured her away and gang-raped her. Thereafter, accused persons/respondents No.2 to 5 were taken into custody. Vide Ex.P-20, consent of the victim was obtained and she was sent for medical examination. PW-4 Dr. S.B. examined the victim and found no external or internal injuries on her person and also did not give any definite opinion regarding forcible sexual intercourse and gave her MLC report vide Ex.P-26. Vide Ex.P-8, undergarment of victim was seized. Vide Exs.9 to P-12, undergarments of accused persons were seized.

4. Statements of the witnesses were recorded and after completing investigation, charge sheet was filed against the accused persons/respondents No.2 to 5 before the concerned trial Court. Accused persons/respondent No.2 to 5 abjured their guilt and prayed for trial.
5. The trial Court, after hearing learned counsel for the parties and appreciating the evidence on record, by the impugned judgment acquitted the accused persons / respondent Nos.2 to 5 herein of the said charges leveled against them.
6. Learned counsel for the appellant/victim submits that the learned trial Court is unjustified in acquitting the accused persons/respondent Nos. 2 to 5 of the aforesaid charges by recording perverse findings. She further submits that there is ample evidence on record to establish that, at the time of the incident, victim was a minor. In addition thereto, there is sufficient evidence available on record to show that the accused



persons/respondent Nos. 2 to 5 abducted the victim and committed forcible sexual intercourse with her one by one. Despite the availability of cogent and clinching evidence, the learned trial Court committed a grave error in acquitting the accused persons/respondent Nos. 2 to 5 without appreciating the evidence on record in its correct perspective. Thus, the impugned judgment of acquittal suffers from perversity and illegality and is, therefore, liable to be set aside.

7. Learned counsel for the respondent No.1/State supports the contention made by learned counsel for the appellant/victim.
8. We have heard learned counsel for the parties and perused the material available on record.
9. The Supreme Court in the case of *Jafarudheen and others vs. State of Kerala* reported in (2022) 8 SCC 440 has also considered the scope of interference in Appeal against acquittal, which reads as under:-

25. While dealing with an appeal against acquittal by invoking Section 378 Cr.P.C., the appellate court has to consider whether the trial court's view can be terms as a possible one, particularly when evidence on record has been analysed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the appellate court has to be relatively slow in reversing the order of the trial court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters."

10. The first question for consideration before this Court is whether the learned trial Court is justified in holding that the victim/prosecutrix was not below 18 years of age on the date of the incident.
11. In order to ascertain the age of the victim, she was examined as PW-2. In her evidence, she specifically admitted that her mother had informed her that she and her maternal uncle had enrolled her in school in Class-I



and had reduced her age by one year in the school records. She further admitted that her actual age at present is about 19–20 years. She also admitted that on 16.03.2022, she was 18 years old. Thus, from the evidence of the victim (PW-2), it is clear that at the time of incident, victim was a major and above 18 years of age. Consequently, the learned trial Court, after evaluating the evidence on record, was justified in holding that the prosecutrix was a major and above 18 years of age at the relevant time and the said finding is hereby affirmed.

12. The next question for consideration is whether the respondent No.2 to 5 / accused persons are the authors of the crime in question.
13. The present case is based solely on the evidence of PW-2 victim. A bare perusal of her testimony would reveal that she herself has not supported the case of the prosecution, as in her evidence, she admitted that on the date of the incident, at about 12:00 midnight, she left her house on her own free will and on way, she met the accused and requested him to give her a lift, whereupon he dropped her near *Kishan's Borbadi*. She further admitted that thereafter, on 17.03.2022, accused again met her and at her request, dropped her at *Devarbija Bus Stand*. She categorically admitted that she had left her house without informing any of the accused persons and had not disclosed to them where she was going. She also admitted that none of the accused persons had enticed, induced or abducted her, nor had they committed any wrongful act or established any physical relations with her. She further admitted that she is making her statement voluntarily and without any fear, pressure or coercion in respect of the alleged offence. She also admitted that her grand-parents intended to solemnize her marriage with



another person and for this reason, she was compelled to lodge a false case against the accused persons. It is further admitted by her that none of the accused persons used any force against her or committed any misconduct with her. She also admitted that in her police statement recorded under Section 161 Cr.P.C. (Ex.P-23), she categorically denied having stated that the accused persons had forcibly established physical relations with her despite knowing that she was a minor. Since the victim (PW-2) herself turned hostile and did not support the prosecution case, we are of the considered opinion that the learned trial Court, after evaluating the evidence available on record, is justified in acquitting the accused persons/respondent Nos. 2 to 5 of the said charges, which calls for no interference.

14. Accordingly, the acquittal appeal filed by the appellant/victim against the acquittal of accused persons/respondent Nos.2 to 5 is hereby dismissed at the admission stage.

Sd/-
(Rajani Dubey)
Judge

Sd/-
(Radhakishan Agrawal)
Judge