



2026:CGHC:1328-DB



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HIGH COURT OF CHHATTISGARH, BILASPUR

ACQA No. 28 of 2018

- State of Chhattisgarh, Through – The Incharge, Police Station – Ambagarh Chouki, District Rajnandgaon (C.G.).

... Appellant

versus

- Yuvraj Nayak, S/o Devsingh Nayak, aged 22 years, R/o village Nichekohda, Police Station Ambagarh Chowki, District Rajnandgaon.

... Respondents

For Appellant/State	: Mr. Rishi Raj Pithwa, Dy. G.A.
For Respondent	: Mr. Dinesh Yadav, Advocate on behalf of Mr. Aditya Bhardwaj, Advocate

For Res. No.2	: Mr. T.K. Jha, Advocate
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**DB : Hon'ble Smt. Justice Rajani Dubey &
Hon'ble Shri Justice Radhakishan Agrawal**

Judgment on Board



(09.01.2026)

Rajani Dubey, J

1. The present acquittal appeal has been filed by the State/appellant herein against the judgment dated 01.08.2017 passed in Special Sessions Case No.02/2017 by the learned Additional Session Judge (FTC), Rajnandgaon (C.G.), whereby the learned trial Court acquitted the accused/respondent herein from the charge punishable under Sections 450, 363, 366, 376(2) and 506(2) of IPC and Section 4 of POCSO Act.
2. The prosecution case, in brief, is that on 20.11.2016, the father of the victim (PW-6) lodged a report at Police Station Ambagarh Chowki stating that his daughter/victim had gone to school at about 8:00 a.m. on 19.11.2016, but did not return home till 5:00 p.m. Thereafter, the informant along with his father-in-law went in search of the victim to village Pandritarai, where the victim's friend Duleshwari (PW-4) informed them that a pan-stall vendor had told her that the victim and the accused/respondent had come to the pan-stall at around 12:00 noon. The accused/respondent had taken the victim on a bicycle towards village Dangadh. The father of the victim also made enquiry at the pan-stall, where he came to know that the accused/respondent had brought the victim there and was enquiring about the bus going towards Dangadh. Upon being informed that the bus



would arrive at around 1:00 p.m., the accused/respondent took the victim along with the bicycle on foot towards Dangadh. As the whereabouts of the victim could not be ascertained, her father (PW-6) lodged a report at the police station, on the basis of which an FIR being crime No. 219/16 was registered against the accused/respondent under Sections 363 and 366 of the IPC

3. During the course of investigation, the Investigating Officer Bhaiyya Lal Patel, Assistant Sub-Inspector (PW-14), recovered the victim along with the accused/respondent on 21.11.2016 from the Bus Stand, Bhanupratappur, District Kanker, in the presence of witnesses. During investigation, medical examinations of both the victim and the accused/respondent were conducted. The Investigating Officer K.V. Nage (PW-15) prepared spot map (Ex. P-8), and the Patwari also prepared the spot map (Ex. P-1). On being produced by the victim's father, the mark-sheet of the victim pertaining to Class VIII, wherein her date of birth was recorded as 18.10.2002, was seized. On production by the victim, her undergarment was seized, and the seized articles were sent to FSL, Raipur for forensic examination. With regard to the age of the victim, the school admission register was seized and its certified copy was annexed with the case record. After arresting the accused/respondent and upon completion of usual investigation, a charge-sheet was



filed against accused/respondent under Sections 363, 366, 376(2), 450 and 506 of the Indian Penal Code, and Section 4 of the POCSO Act before the jurisdictional Court followed by charge under Sections 450, 363, 366, 376(2) and 506(2) of IPC & Section 6 of POCSO Act. The accused/respondent however denied the charge and pleaded for trial.

4. In order to prove its case, the prosecution examined as many as 15 witnesses. Statement of the accused/respondent was also recorded under Section 313 of the Cr.P.C. wherein the accused/respondent pleaded innocence and false implication in the crime, however, no defence witness was examined in the case.
5. The learned Trial Court after hearing counsel for the respective parties and considering the material available on record, by the impugned judgment acquitted the accused/respondent of the charge under Sections 450, 363, 366, 376(2), 506 of IPC and Section 4 of POCSO Act. Hence, this appeal by the State.
6. Mr. Rishi Raj Pithwa, learned Dy. Govt. Advocate for the State/appellant submits that the impugned judgment passed by the learned Trial Court is cryptic, laconic, and unsustainable in law, having been delivered without proper appreciation of the material and evidence available on record. It was contended that the learned Trial Court failed to duly consider the documentary, oral, and medical



evidence, which clearly establishes that the prosecutrix was a minor and was subjected to sexual intercourse by the accused. The learned counsel further submitted that the learned Trial Court erred in disbelieving the testimony of the complainant (PW-6), the father of the prosecutrix, by giving undue importance to minor contradictions and omissions, while ignoring the consistent and cogent prosecution evidence. It was argued that the prosecution case stood proved beyond reasonable doubt, but the learned Trial Court mechanically overlooked these crucial aspects. It was, therefore, argued that the impugned judgment being illegal, improper, and unjust, deserves to be set aside, and the accused/respondent ought to have been convicted for the alleged offence.

7. On the other hand, Mr. Dinesh Yadav, learned counsel for accused/respondent supports the impugned judgment of acquittal.
8. We have heard learned counsel for the parties and perused the material available on record.
9. It is clear from the record of the learned Trial Court that the learned Trial Court framed charges under Section 450, 363, 366, 376(2), 506(2) of IPC and Section 6 of POCSO Act, and after appreciation of oral and documentary evidence, the learned Trial Court acquitted the accused/respondent of the said charges on the ground that the prosecutrix and



other important prosecution witnesses have not supported the case of the prosecution.

10. Prosecutrix (PW-8) has stated that she resides with her parents and her father scolded her, therefore, she had left the house. She has also stated that she left the house alone and police had taken/recovered her from Bhanupratappur lodge and at that time nobody was with her. She has also stated that the police had taken her consent vide Ex.P-15 for medical examination and her medical examination was conducted vide Ex.P-16 & she admitted her signature in Ex.P-15, P-16, seizure memo Ex.P-10 and in her statement (Ex.P-17) recorded under Section 164 of Cr.P.C. on 'A to A' part. The prosecution declared her hostile and cross-examined her but she denied all suggestions of the prosecution. She admitted this suggestion of defence that she left the house because her father had scolded her and information of which was not given to them by her. She has also admitted this suggestion that she neither accompanied the accused/respondent nor accused/respondent said her to accompany him and he was not with her at Bhanupratappur. She has admitted that the accused/respondent had not done any wrong act with her.
11. Father of prosecutrix (PW-6) has stated his daughter had gone missing and he searched for her at many places with Govardhan Nayak and Pawan Nayak & when his daughter



could not be found, a report was lodged at the police station. He has also stated that when he along with others went in search of the girl, no one provided them with any information about his daughter. He has also stated that his daughter returned after two or three days. He did not ask his daughter where she had gone or with whom she had gone. He has also stated that the police did not question him regarding the incident and did not record his statement. This witness has specifically stated that he does not know where his daughter studied Class VIII and he does not know who had taken his daughter away. The prosecution has declared this witness hostile but he denied all suggestions of the prosecution.

12. Dr. Ekta Denial (PW-2) is the doctor who examined the prosecutrix (PW-8) but she did not find any internal or external injury on her body and gave her report under Ex.P-2 opining that no definite opinion could be given regarding the sexual intercourse but her vagina admits two fingers easily without pain.
13. On a careful consideration of the entire oral and documentary evidence on record, this Court finds that the learned Trial Court has rightly acquitted the accused/respondent of the charges framed against him. The prosecutrix (PW-8), who is the most material witness, has not supported the prosecution case at all. She has



categorically stated that she left her house on her own due to scolding by her father and that she went alone. She has specifically denied accompanying the accused/respondent, denied that the accused/respondent induced or compelled her to go with him, and further denied that the accused/respondent committed any wrongful or sexual act with her. Even after being declared hostile, nothing could be elicited in her cross-examination to support the prosecution version. Similarly, the father of the prosecutrix (PW-6), who is another important prosecution witness, has also not supported the prosecution case. He has stated that although his daughter had gone missing, she returned after two or three days and he did not inquire from her where she had gone or with whom. He has clearly admitted that he does not know who had taken his daughter away. That apart, the medical evidence also does not corroborate the allegations of sexual assault as is evident from the evidence of Dr. Ekta Denial (PW-2), who examined the prosecutrix, and did not find any internal or external injuries on her body and opined that no definite opinion regarding sexual intercourse could be given. Thus, the medical evidence fails to support the prosecution allegations under Sections 376(2) IPC and Section 6 of the POCSO Act.

14. The Hon'ble Apex Court in its recent judgment dated 12.02.2024 (Criminal Appeal No 1162 of 2011) passed in



the matter of **Mallappa and Ors. Versus State of Karnataka**, has held in para 36 as under:-

36. Our criminal jurisprudence is essentially based on the promise that no innocent shall be condemned as guilty. All the safeguards and the jurisprudential values of criminal law, are intended to prevent any failure of justice. The principles which come into play while deciding an appeal from acquittal could be summarized as:-

"(I) Appreciation of evidence is the core element of a criminal trial and such appreciation must be comprehensive-- inclusive of all evidence, oral and documentary;

(ii) Partial or selective appreciation of evidence may result in a miscarriage of justice and is in itself a ground of challenge;

(iii) If the Court, after appreciation of evidence, finds that two views are possible, the one in favour of the accused shall ordinarily be followed;

(iv) If the view of the Trial Court is a legally plausible view, mere possibility of a contrary view shall not justify the reversal of acquittal;

(v) If the appellate Court is inclined to reverse the acquittal in appeal on a re-appreciation of evidence, it must specifically address all the reasons given by the Trial Court for acquittal and must cover all the facts;

(vi) In a case of reversal from acquittal to conviction, the appellate Court must demonstrate an illegality, perversity or error of law or fact in the decision of the Trial Court."

15. Thus from the discussion aforesaid and judicial pronouncement of Hon'ble Supreme Court in the matter of **Mallappa** (*supra*) & the view taken by the learned Trial



Court in acquitting the accused/respondent of the charges under Sections 450, 363, 366, 376(2), 506(2) of IPC and Section 4 of POCSO Act, this Court finds no illegality in the order impugned acquitting the respondents particularly when there is a settled legal position that if on the basis of record two conclusions can be arrived at, the one favouring the accused has to be preferred. Even otherwise, the consistent denial by the prosecutrix, lack of support from the father of the prosecutrix, and absence of medical corroboration, the prosecution has failed to prove the charges beyond reasonable doubt. The learned Trial Court has properly appreciated the evidence on record and has recorded a well-reasoned judgment of acquittal. 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.

16. Accordingly, the acquittal appeal is dismissed.

Sd/-
(Rajani Dubey)
JUDGE

Sd/-
(Radhakishan Agrawal)
JUDGE