



2026:CGHC:2915-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 668 of 2019

XYZ

---Appellant

Versus

1 - State of Chhattisgarh, through Police Station Incharge Officer, D. D. Nagar, Tahsil & District Raipur (C.G.).

2 - Raju Masih S/o Late Manrakhan Masih, aged about 60 years, R/o Sarona, B. S. U. P. Colony, House No. 6 Block No. 11, P. / S. - D. D. Nagar, District Raipur (C.G.).

3 - Smt. Lalita Masih W/o Raju Masih, aged about 54 years, R/o Sarona, B. S. U. P. Colony, House No. 6 Block No. 11, P. / S. - D. D. Nagar, District Raipur (C.G.).

--- Respondents

For Appellant	: Mr. Jeet Patel, Advocate.
For State	: Mr. Krishna Gopal Yadav, Dy. G.A.
For Respondents No. 2 & 3	: Ms. Usha Chandrakar, Advocate.

ACQA No. 767 of 2019

State of Chhattisgarh, through the Police Station D. D. Nagar, District - Raipur (C.G.)

---Appellant

Versus

1 - Raju Masih S/o Late Manrakhan Masih, aged about 60 years, R/o Sarona, B. S. U. P. Colony, House No. 6 Block No. 11, P. / S. - D. D. Nagar, District Raipur (C.G.).

2 - Smt. Lalita Masih W/o Raju Masih, aged about 54 years, R/o Sarona, B. S. U. P. Colony, House No. 6 Block No. 11, P. / S. - D. D. Nagar, District Raipur (C.G.).

--- Respondents

For State/Appellant : Mr. Krishna Gopal Yadav, Dy. G.A.

For Respondents : Ms. Laxmin Tondey, Advocate.

Hon'ble Smt. Justice Rajani Dubey, J.

Hon'ble Shri Justice Radhakishan Agrawal, J.

Judgment on Board

Per, Rajani Dubey, J.

19/01/2026

1. Since the questions of law and facts involved in both these appeals are similar, therefore, both the appeals are being disposed of by this common order.
2. These present acquittal appeals are preferred by the complainant/appellant in ACQA No. 668 of 2019 and the State/appellant in ACQA No. 767 of 2019 against the judgment dated 01.07.2019 passed by the learned Special Judge, (POCSO Act 2012) Raipur, District-Raipur (C.G.) in Special Criminal POCSO Case No. 198/2018, whereby the learned trial Court acquitted the accused Raju Masih of the charges levelled against him under Sections 376 (2) (i), 506 (II) of IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 and acquitted the co-accused Lalita Masih of the

charges levelled against her under Section 376 of IPC read with Section 17 of Protection of Children from Sexual Offences Act, 2012.

3. Brief facts of the case are that the complainant/prosecutrix and the accused persons/respondents were residing in the same block, the accused persons were residing in the second floor, whereas the prosecutrix was residing in the third floor and the prosecutrix was familiar to the accused persons/respondents. On 12.10.2018, in Police Station D.D. Nagar, District-Raipur (C.G.), the prosecutrix had lodged a written complaint against the respondents alleging that in the month of April, 2018 at 12.00 noon, when she went to the house of the accused persons/respondents, at that time the accused persons were present in their house, the co-accused Lalita Masih i.e., wife of the accused gave her a sweet and after consumption of the same, she got dizzy and fell unconscious. Thereafter, the accused Raju Masih made her lay down on the cot, tied her hands to the same and satiated his lust by committing forcible sexual intercourse upon her, whereas the co-accused was a facilitator of the crime, having witnessed the incident and remained silent throughout, thus helping her husband. Thereafter, the accused Raju Masih threatened the prosecutrix by saying that if she discloses about this incident to any other person then he will kill her mother, brother-in-law and sister, as such out of fear she did not disclose about the said incident to any person, however, after every 2-3 days the accused took her to his house and committed forcible sexual intercourse upon her and the wife of the accused always helped him to do so. Like this, the accused Raju Masih repeated the said act with the prosecutrix till 12.09.2018. On 03.10.2018 the prosecutrix felt sudden pain in her stomach, then she

disclosed about the fateful incident to her mother and then lodged report with her mother against the accused persons.

4. After completion of due and necessary investigation, charge-sheet was filed against the accused Raju Masih before the concerned Jurisdictional Magistrate, for the offence punishable under Sections 376 (2) (n), 506 (II) of IPC and Section 6 of Protection of Children from Sexual Offences Act, 2012 and against the co-accused Lalita Masih for the offence punishable under Section 376 of IPC read with Section 17 of Protection of Children from Sexual Offences Act, 2012 against which the present appeal has been filed by the complainant/appellant and the State/appellant.
5. Learned counsel for the complainant/appellant in ACQA No. 668 of 2019 submits that the judgment of acquittal passed by the learned trial Court is arbitrary, illegal and contrary to the law applicable to the facts and circumstances of the case and the evidence available on record, facts and evidence of the case. He further submits that the learned trial Court has committed serious illegality in delivering the impugned judgment while disbelieving the evidence of the prosecutrix, as she herself narrated in her statement under Section 164 of Cr.P.C. and also in deposition alleging that when on month of April, 2018 at 12.00 noon, she went to the house of the accused, at that time the accused persons were present in their house, then the wife of the accused gave her sweets, and after consuming the same she got dizzy and fell unconscious, thereafter the accused took undue advantage of the situation by making her lay down on the cot, tied her hands to the same and satiated his lust by committing forcible sexual intercourse

upon her. Learned trial Court has committed grave error of law in appreciating the provisions of offence and statement of the witnesses. The learned trial Court has also committed a grave mistake in appreciating that the prosecutrix is a minor girl and due to threat received of her close family members, she did not disclose about the incident, however there is no such reason to disbelieve her version about occurrence of the incident. Therefore, looking to the facts and circumstances of the case, the judgment and finding of the learned trial Court is perverse and is liable to be set aside.

6. Learned counsel for the State/appellant in ACQA No. 767 of 2019 submits that the learned trial Court has passed the impugned order in a cryptic and laconic manner without appreciating the material available on record. The impugned judgment, finding and order of acquittal passed by the learned Special Judge is illegal, improper, incorrect and is liable to be set aside. The learned trial Court has not appreciated the evidence of PW-01 (prosecutrix) in its proper perspective manner, wherein, she has categorically stated that the accused Raju Masih gave a sweet and after eating the same, she got dizzy and fell unconscious and thereafter, the accused committed forcible sexual intercourse upon her, whereas, the co-accused was the facilitator of the accused. The learned trial Court also failed to appreciate the evidence of mother of the prosecutrix, i.e. PW-02. The learned trial Court has not considered the seriousness of the offence that an elderly person has committed the crime upon a young girl and if there is any minor discrepancy, that cannot be the basis of acquittal and has appreciated the fact that there is no definite opinion regarding recent sexual intercourse. The learned trial Court has not considered

the fact that the prosecutrix was a minor at the time of incident, though it has been held in para 11 that her date of birth is proved as 13.06.2002. The learned trial Court overlooked the case of the prosecution and evidence against the accused/respondent by which the case of the prosecution is fully established against him beyond any reasonable doubt, but the learned trial Court has overlooked this aspect and passed an order in mechanical manner which is bad in law and liable to be set aside.

7. *Per contra*, learned counsel for accused/respondent supported the impugned judgment and submits that the learned trial Court upon minutely appreciating the oral and documentary evidence rightly acquitted the respondents of the aforesaid charge levelled against them and as such, there is no need to interfere with the impugned judgment.
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 against the accused Raju Masih under Sections 376 (2) (n) of IPC, Section 506 (II) of IPC and Section 6 of POCSO Act, 2012 and framed charges against the co-accused Lalita Masih under Section 376 of IPC read with Section 17 of POCSO Act, 2012 and after appreciation of oral and documentary evidence, the learned trial Court acquitted both the respondents of all the aforesaid charges levelled against them.
10. PW-01, prosecutrix has stated that the incident is of the last year in the month of April, at around 12-12:30 pm when she went to the house of

the accused persons and they were present at that time, upon reaching, the accused Raju Masih gave her a sweet to eat and after consuming the same she got dizzy and fell unconscious. Thereafter, the accused Raju Masih tied her hands and satiated his lust by committing forcible sexual intercourse upon her, whereas the co-accused was a facilitator of the crime, having witnessed the incident and remained silent throughout, thus helping her husband. Thereafter, the accused Raju Masih threatened the prosecutrix by saying that if she discloses about this incident to any other person then he will kill her mother, brother-in-law and sister, as such out of fear she did not disclose about the said incident to any person, however, after some days, the accused took her to his house and committed forcible sexual intercourse upon her and the wife of the accused always helped him to do so. Due to this sexual assault, she got pain in her stomach, as such she disclosed this incident to her mother and filed a written complaint vide Ex. P/01 before Police Station D.D Nagar, police lodged F.I.R. vide Ex. P/02, spot map of the incident is Ex. P/03 and her consent letter for medical examination is obtained vide Ex. P/04. The statement of the prosecutrix recorded before the Judicial Magistrate is Ex. P/05 and she admitted her signatures on all documents i.e., Ex. P/01 to Ex. P/05 on A to A part. In para 10 of her cross-examination, she admitted the suggestion of defence that the accused persons/respondents have no children, and in the past when she was young, the accused persons treated her like own child. In para 11 of her cross-examination, she denied the suggestion of the defence that she falsely implicated the accused Raju Masih as he blackmailed her by saying that he will tell to her mom regarding her establishing forcible sexual

relationship with Firoz which was witnessed by him when the victim was alone at home. She affirmed in Ex. P/05 (B to B) that she was three months pregnant, but stated she could not account for the absence of this information in her earlier police statement and written complaint.

11. (PW-2), mother of the prosecutrix in her examination-in-chief stated that when she returned home from work, her daughter/victim told her that she had a stomach ache, to clear the same the mother of the prosecutrix gave medicines to the victim, and the victim then told her that blood was coming out from her private parts, and then she disclosed about the fateful incident where she was subjected to forcible sexual intercourse by the accused Raju Masih after she was made to eat sweet by the co-accused Lalita Masih and the co-accused was the facilitator of the crime. Upon learning of the incident, a report was lodged at Police Station D.D. Nagar. In para 08 of her cross-examination, she denied this suggestion of defence that the prosecutrix falsely implicated the accused Raju Masih as he blackmailed her by saying that he will tell to her mom regarding her establishing forcible sexual relationship with Firoz which was witnessed by him.
12. PW-06, Dr. A. Dutt examined the prosecutrix on 12.10.2018 and opined that she did not find any external or internal injury of the prosecutrix. She further stated that the prosecutrix's hymen was old ruptured and no definite opinion can be given regarding recent sexual intercourse and gave her report as Ex. P/13 and she further referred the prosecutrix/victim to the gynecologist.

13. PW-07, uncle of the prosecutrix supported the statement of the prosecutrix.
14. It is clear that the learned trial Court finds that the age of the prosecutrix was below 18 years of age, but statement of the prosecutrix is not reliable as her statement is contradictory to her police statement and the written complaint and she did not explain the cause of delay in lodging of F.I.R. It is further clear that the learned trial Court minutely appreciated the oral and documentary evidence. The medical report also not supports the prosecution case, so the learned trial Court rightly finds that the prosecution has failed to prove its case beyond reasonable doubt against the accused persons/respondents.
15. The Hon'ble Apex Court in its **judgment dated 12.02.2024** passed in **Criminal Appeal No.1162 of 2011**) in case 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.”

16. Considering the facts and circumstances of the case and the law laid down by the Hon'ble Supreme Court in ***Mallappa (supra)*** and the view which has been taken by the learned trial Court appears to be plausible and possible view and in the absence of any patent illegality or perversity this Court is not inclined to interfere with the impugned judgment. Even otherwise, it is a well settled principle of law that in case of appeal against acquittal, the scope is very limited and interference can only be made if the findings recorded by the court below are highly perverse or arrived at by ignoring relevant material and considering the irrelevant ones.
17. Accordingly, both the acquittal appeals are devoid of any merit and the same are liable to be and are hereby **dismissed**.

Sd/-
(Rajani Dubey)
JUDGE

Sd/-
(Radhakishan Agrawal)
JUDGE