



2026:CGHC:3497-DB



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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 395 of 2023

- ABC

...Appellant/Victim

versus

1. State of Chhattisgarh, Through the District Magistrate, Koriya, District : Koriya (Baikunthpur), Chhattisgarh.
2. Manajul Khan, S/o Mohammad Musa Khan, aged about 25 Years, R/o Ruppur Poyanpara, PS- Basantpur, District Balrampur, C.G. (Accused)

... Respondents

For Appellant	:	Mr. Shivendu Pandya, Advocate.
For Respondent No.1	:	Ms. Nand Kumari Kashyap, Panel Lawyer.

Hon'ble Smt. Justice Rajani Dubey &

Hon'ble Shri Justice Radhakishan Agrawal

Judgment on Board

21.01.2026

Per Radhakishan Agrawal, J.

Heard on admission.

1. This acquittal appeal filed by the Appellant/Victim arises out of the judgment dated 22.02.2023 passed by the Additional Sessions Judge (Fast Track Court) and Special Judge (Protection of Children from Sexual Offences Act, 2012) Baikunthpur, District Koriya, C.G., in Special Criminal Case No.42/2021, whereby the learned trial Court acquitted the accused/respondent No.2 of the charges under Section 376(2)(n) of Indian



Penal Code (for short, 'IPC') and Section 6 of Protection of Children from Sexual Offences Act, 2012 (in short, 'the Act, 2012').

2. Case of the prosecution, in brief, is that in the year 2017, accused/respondent No.2 – Manajul Khan was residing with his sister. During this period, he came in contact with victim, obtained her mobile number and they started talking with each other. It is alleged that from 2017 till May–June 2020, accused/respondent No.2, on the false pretext of marriage, established physical relations with the victim on several occasions. When the victim subsequently insisted upon marriage, accused/respondent No.2 refused to marry and discontinued contact with her. Thereafter, the victim lodged a written report (Ex.P-1) at Police Station Baikunthpur, on the basis of which, FIR (Ex.P-2) was registered against accused/respondent No.2.
3. During the course of investigation, spot map was prepared vide Ex.P-6. After obtaining the consent of victim, she was sent for medical examination, whereupon PW-6 Dr. S.S. examined her and did not notice any injury on the person of the victim either internally or externally and also did not give any definite opinion regarding commission of sexual intercourse and gave MLC report vide Ex.P-7A.
4. Statements of the witnesses were recorded and after completing investigation, charge sheet was filed against the accused/respondent No.2 before the concerned trial Court. Accused/respondent No.2 abjured the guilt and prayed for trial.
5. The trial Court, after hearing counsel for the parties and appreciating the evidence on record, by the impugned judgment acquitted the accused/respondent No.2 of charges leveled against him.



6. Learned counsel for the Appellant/Victim submits that the learned trial Court has erred in acquitting accused/respondent No.2 of the aforesaid charges by recording perverse findings. He further submits that there is ample evidence available on record, particularly the testimony of PW-1 (victim), to establish that the victim was minor and that accused/respondent No.2, on the false pretext of marriage, established physical relations with her on several occasions and subsequently refused to marry her. Despite the availability of sufficient and cogent evidence on record, the learned trial Court committed a grave error in acquitting the accused/respondent. Thus, the impugned judgment of acquittal suffers from perversity and illegality and is 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 matter of *Jafarudheen and others vs. State of Kerala reported in (2022) 8 SCC 440* has 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 CrPC, 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-1. In her evidence, she clearly admitted that she does not know her exact date of birth and that her date of birth was recorded in the school on the basis of guesswork. That apart, in the *Aadhaar* Card of the victim, her date of birth is mentioned as 01.01.2001, however, her Primary School Class-V mark-sheet (Article-A) records her date of birth as 28.10.2002, whereas the copy of *Dakhil Kharij Panji* (Ex.P-8C) mentions her date of birth as 28.10.2000. These material inconsistencies in the documentary evidence create serious doubt regarding the actual age of the victim. Moreover, there is no evidence on record to show the basis on which the dates of birth were recorded in any of the aforesaid documents. In the absence of any reliable oral or documentary evidence to conclusively establish the age of the victim, the learned trial Court, after proper appreciation of the evidence available on record, was justified in holding that, at the time of the incident, the victim was major and above the age of 18 years. Accordingly, we affirm the said finding recorded by the learned trial Court.

12. Next question for consideration is whether the respondent No.2/accused is the author of the crime in question.

13. PW-1 (Prosecutrix) herself admitted in her evidence that her marriage with accused/respondent No.2 was solemnized on 02.08.2021 in accordance with Muslim customs and rites. She further admitted that prior to the marriage, she had been in a love relationship with accused/respondent No.2 for the last 4–5 years and had consensual physical relations with him. She also admitted that after the marriage, accused/respondent No.2 did not take proper care of her, due to which, she has been residing at her



parental home and for that reason, she lodged the report against the accused/respondent. She further admitted that if accused/respondent No.2 comes and takes her to the matrimonial home and does not harass her, she is willing to reside with him at her in-laws' house.

14. Thus, from perusal of the evidence of the victim, it is quite vivid that prior to their marriage, there was a love affair between the victim and accused/respondent No.2 and that she was a consenting party with regard to the alleged offence. That apart, there is no evidence on record to show that the victim was a minor at the relevant time and that the accused/respondent No.2, with knowledge of her minority, established physical relations with her on the false pretext of marriage. Taking note of her testimony, the learned trial Court has not committed any illegality in acquitting the accused/respondent No.2 of the alleged offences. The findings recorded by the learned trial Court are neither perverse nor contrary to the evidence on record, so as to warrant any interference in this acquittal appeal.

15. Accordingly, the acquittal appeal filed by the Appellant/Victim against the acquittal of the accused/respondent No.2 is hereby dismissed at the admission stage.

Sd/-
(Rajani Dubey)
Judge

Sd/-
(Radhakishan Agrawal)
Judge

