



2026:CGHC:2913-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 409 of 2025

• XYZ

...Appellant/Victim

versus

1. Arbaj Khan, S/o Ishtiyag Khan, aged about 21 Years, R/o Ward No. 3, Ramanujganj, P.S. Ramanujganj, Distt. Balrampur- Ramanujganj, Chhattisgarh.
2. The State of Chhattisgarh, Through Station House Officer, P.S. Ramanujganj, Distt. Balrampur- Ramanujganj, Chhattisgarh.

... Respondents

For Appellant	:	Mr. Rishikant Mahobia, Advocate.
For Respondent No.2	:	Mr. Rishi Raj Pithwa, Deputy Government Advocate.

Hon'ble Smt. Justice Rajani Dubey &

Hon'ble Shri Justice Radhakishan Agrawal

Judgment on Board

19.01.2026

Per Radhakishan Agrawal, J.

Heard on admission.

1. This acquittal appeal preferred by the Appellant/Victim arises out of the judgment dated 22.09.2025 passed by the Additional Sessions Judge, Fast Track Special Court (POCSO Act) Ramanujganj, District Balrampur-Ramanujganj, C.G. in Special Sessions (POCSO) Case No.26/2023, whereby the learned trial Court acquitted the accused/respondent of the charges under Sections 363, 366 & 376(2)



(n) of Indian Penal Code (for short, "IPC") and Section 5(l)/6 of Protection of Children from Sexual Offences Act, 2012 (for short, 'the Act, 2012') on the basis of benefit of doubt.

2. Case of the prosecution, in brief, is that on 22.02.2023, father of the prosecutrix lodged a missing report at Police Station Ramanujganj stating that his minor daughter/prosecutrix, aged about 16 years and 3 months, found missing from the house. Despite searching among relatives and nearby places, she could not be traced. During the course of investigation, information was received that the prosecutrix had gone towards Delhi. Acting upon the said information, police recovered the prosecutrix from the possession of the accused/respondent No.1 vide Ex.P-1. After that, statement of prosecutrix was recorded in which she alleged that accused/respondent No.1 had developed acquaintance with her and on the pretext of marriage, subjected her to repeated sexual intercourse. She further alleged that on the night of 21.02.2023, accused/respondent No.1 took her from her house and travelled with her to different places. Thereafter, FIR (Ex.P-3) was registered against the accused/respondent No.1.
3. During investigation, vide Ex.P-7 *Dakhil Kharij* Register of prosecutrix was seized. Vide Exs.P-10 & P-11 vaginal slides and underwear of prosecutrix was seized. Seized articles were sent to FSL for chemical examination and FSL report has been brought on record (unexhibited).
4. Statements of the witnesses were recorded and after completing investigation, charge sheet was filed against the accused/respondent No.1 before the concerned trial Court. Accused/respondent No.1 abjured the 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 / respondent No.1 herein of the said charges leveled against him.
6. Learned counsel for the Appellant/Prosecutrix submits that the learned trial Court is unjustified in acquitting the accused/respondent No.1 of the aforesaid charges by recording perverse findings. He further submits that there is ample evidence on record to establish that, at the time of the incident, the prosecutrix was a minor. In addition thereto, there is sufficient evidence to show that the accused/respondent No.1, abducted the prosecutrix and on the false pretext of marriage, forcibly established physical relations with her on several occasions. Despite the availability of cogent and clinching evidence, the learned trial Court committed a grave error in acquitting the accused/respondent No.1 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.2/State supports the contention made by learned counsel for the appellant/prosecutrix.
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 prosecutrix, she was examined as PW-1. Although in her statement, she has stated that at the time of the incident, she was aged about 16 years and 8 months, but she did not disclose her exact date of birth. Her father (PW-2), on the other hand, has clearly stated that the date of birth of the prosecutrix is 16.11.2003 and, at present, her age would be about 18–19 years. Apart from this, there is no cogent and clinching evidence to establish that the prosecutrix was a minor on the date of the incident. In the absence of any reliable evidence to prove the age of the prosecutrix, the learned trial Court, after properly appreciating the evidence available on record, was justified in holding that at the time of the incident, the prosecutrix was major and above the age of 18 years. Accordingly, we affirm the said finding recorded by the learned trial Court.
12. The next question for consideration is whether the respondent No.1/accused is the author of the crime in question.
13. PW-1 prosecutrix herself admitted in her evidence that on the night of 21.02.2023, accused/respondent No.1 called her and asked her to come out, whereupon she herself opened the main door of her house and voluntarily left the house along with him. She further admitted that she



accompanied the accused/respondent No.1 on her own free will. She also admitted that they reached *Garhwa* Railway Station in the early morning hours, where a large number of people, including police personnel, were present, however, she did not raise any alarm nor disclose to any person present at the railway station that she was being forcibly taken by the accused/respondent No.1. She further admitted that during the journey by train from *Garhwa* to *Daltonganj* and thereafter by bus from *Daltonganj* to *Dehri*, she did not inform any co-passenger or other person that she was being taken by the accused/respondent No.1 against her will. She also admitted that on 16.11.2022, accused/respondent No.1 took her to a rented house where he established physical relations with her and thereafter dropped her back at her house at about 9:00 a.m., and at that time, she did not disclose this fact either to her family members or to any neighbouring person. She further admitted that prior to the incident dated 21.02.2023, she had not disclosed to anyone, including her family members, that during the period 2021–22 up to December 2022, she had been moving around with the accused/respondent No.1 and that he had established physical relations with her.

14. Thus, from perusal of the aforesaid evidence, it emerges that the prosecutrix was a consenting party to the alleged acts and that she travelled with and stayed with the accused/respondent No.1 at different places on her own free will. No resistance was offered by her during the course of such travel and stay, nor did she lodge any complaint or raise any alarm before any nearby person while travelling by bus and train or during her stay with accused/respondent No.1. These circumstances clearly indicate that the allegations of abduction and commission of



forcible acts are not established against the accused/respondent No.1.

The learned trial Court, after elaborately discussing and analyzing the evidence led by the prosecution, rightly came to the conclusion that the prosecution has failed to prove its case beyond reasonable doubt and, accordingly, acquitted the accused/respondent No.1 of the charges levelled against him by extending the benefit of doubt.

15. After considering the material available on record as well as the elaborate judgment impugned passed by the trial Court, we are of considered opinion that the judgment impugned acquitting the accused/respondent No.1 of the said charges is just and proper and does not call for any interference.

16. Accordingly, the acquittal appeal filed by the appellant/prosecutrix against the acquittal of the accused/respondent No.1 is hereby dismissed at the admission stage.

Sd/-
(Rajani Dubey)
Judge

Sd/-
(Radhakishan Agrawal)
Judge