

HIGH COURT OF CHHATTISGARH, BILASPURCr.M.P. No.1051 of 2021

State of Chhattisgarh, Through: Police Station Saja, District Bemetara (CG)

---- Applicant/State

Versus

Toman Mahilange, age 22 years, S/o. Late Manmohan Mahilange, R/o. Village Mohtara, P.S. Saja, District Bemetara (CG)

---- Respondent

For Applicant/State: Mr.Sudeep Verma, Dy.Govt.Advocate

Hon'ble Shri Justice Sanjay K. Agrawal and
Hon'ble Shri Justice Arvind Singh Chandel

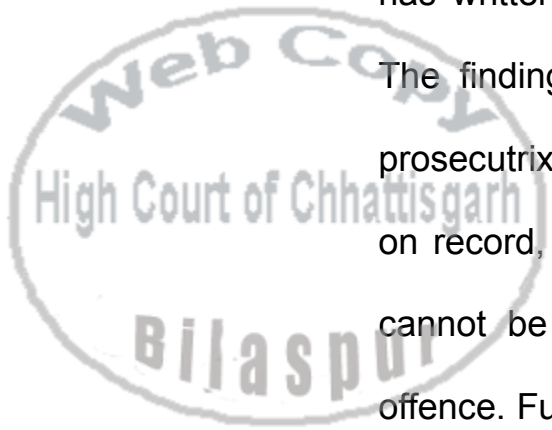
Order On Board
(03.12.2021)

Sanjay K. Agrawal, J.

1. The State has sought leave to appeal against the impugned judgment of acquittal dated 19.3.2021, by which the respondent / accused has been acquitted from charges under Sections 363, 366A, 376 and 506 Part-II of the IPC and Sections 5L/6 of the Protection of Children from Sexual Offences Act, 2012.
2. Mr.Sudeep Verma, learned Deputy Government Advocate for the applicant / State, would submit that the learned Fast Track Special Judge constituted under POSCO Act, 2012, Bemetara is absolutely unjustified in acquitting the respondent / accused from the aforesaid offences by recording a finding which is perverse to record. Therefore, leave deserves to be granted.



3. We have heard learned counsel for the applicant / State, considered his submission and gone through the records filed along with this petition.
4. Learned Special Judge has acquitted the respondent / accused finding that the prosecutrix is not minor & she is major, particularly taking into consideration the statement of the prosecutrix (PW-3) holding that no sexual intercourse has been committed against her wishes, she is major and she herself has left her parental house on her own will and also holding that they have love-affairs and she has written letters (Exs.D-1 to D-3) to the respondent / accused. The finding recorded by the learned Special Judge holding the prosecutrix to be major is the finding based on evidence available on record, which is neither perverse nor contrary to record and it cannot be held that the prosecutrix was minor on the date of offence. Furthermore, statement of the prosecutrix would show that she herself has left the company of her parents and stayed for two days along with the respondent / accused. In para-13 of her statement before the Court, she has clearly stated that she has gone to the extent of pouring kerosene oil over her body in order to stay with the respondent / accused. She has also categorically stated that she was not forced to accompany by the respondent / accused and the respondent / accused has not committed sexual intercourse with her.
5. Taking into consideration the statement of the prosecutrix and other evidence available on record, it cannot be held that the findings





recorded by the learned Special Judge acquitting the respondent / accused from aforesaid offences are perverse or contrary to record. We do not find any reason to grant leave to appeal. Accordingly, the application is rejected and consequently, acquittal appeal is also dismissed.

Sd/-

(Sanjay K. Agrawal)
Judge

Sd/-

(Arvind Singh Chandel)
Judge

B/-



**HIGH COURT OF CHHATTISGARH AT BILASPUR****Criminal Appeal No.634 of 2012****Appellant**

Kamlesh Kumar

Versus**Respondent**

State of Chhattisgarh

(Head-note)

(English)

Direction issued to the Additional Chief Secretary, Department of Home and the Director, State Judicial Forensic Science Laboratory, Raipur for timely FSL examination of seized articles and that to be brought on record well within time.

(हिन्दी)

जब्तशुदा वस्तुओं के समय पर एफ.एस.एल. परीक्षण तथा उसे समय रहते दर्ज करने हेतु अतिरिक्त मुख्य सचिव, गृह विभाग तथा निदेशक, राज्य न्यायिक विधि विज्ञान प्रयोगशाला, रायपुर को निर्देश जारी।