CGHC010069012018 2026:CGHC:36515-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 36 of 2018

1 - State Of Chhattisgarh Through Police Station Kuwakonda, District Dantewada Chhattisgarh.

... Appellant

versus

NIKITA JAIN

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Date: 2026.08.17 18:17:55 +0530

1 - Manoj Kumar Nag S/o Shri Chamruram Nag Aged About 24 Years Caste Telga, R/o Baidipara, Kuwakonda, Police Station Kuwakonda, District Dantewada Chhattisgarh,

... Respondent

For State/Appellant	**:**	Shri Vinod Tekam, Govt. Advocate.
For Respondent	**:**	Shri Shrawan Agrawal, Advocate.

DB: Hon'ble Shri Justice Sanjay S. Agrawal &
Hon'ble Shri Justice Sanjay Kumar Jaiswal
Judgment on Board

Per **Sanjay S. Agrawal, J**

17/08/2026

1. This appeal has been preferred by the State/appellant under Section 378 of the Code of Criminal Procedure, 1973, questioning the legality and propriety of the judgment dated 10.04.2017 passed by the Special Additional Sessions Judge, Fast Track Court, South Baster, Dantewada (C.G.) in Special Sessions Case No.05/2016, whereby, the respondent has been acquitted with regard to the offence punishable under Sections 376(2)(n), 506 Part II of IPC, read with Section 5(l)/6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

2. From perusal of the record, it appears that the respondent has been charge-sheeted with regard to the offence mentioned herein-above on the allegation that on 01.12.2015, the prosecutrix has lodged the report against the respondent before the Police Station Kuwakonda, District Dantewada, wherein, it was alleged that she is a student of 10th Class and whenever she used to go to the school, she was followed by the respondent, who pressurised her to marry, else she will be killed, owing to which, she stopped going to the school and, started doing labour work. It is alleged further by her that in the month of July, 2015, when she was returning home, the respondent caught hold of her hand, dragged her towards the Bhalu Gutkudi forest and committed sexual intercourse with her forcefully, while showing her knife. It is alleged further that on 23.11.2015, her mother, upon showing her stomach, made some inquiry with her, then it was disclosed by her that the respondent has committed sexual intercourse, while alluring her on the pretext of marriage, owing to which, she became pregnant for four months. Based upon the alleged allegation, the respondent has been charge-sheeted as such.

3. In order to establish the alleged allegation, the prosecutrix was examined as PW-6, however, from perusal of her testimonies, particularly, from paragraphs 5 & 6, it appears that both, the prosecutrix and the respondent, were in love and, he has not committed anything wrong with her forcefully and, admitted specifically that she has not raised any objection when the physical relation was made by him, nor was allured by him to marry with her before making physical relations with her and, has lodged the report only at the instance of her parents. The Dr. Geeta Netam (PW-7), who examined her, has also not found

any kind of symptoms attempting sexual assault upon her, nor has seen abrasions on her body. The alleged of her relation was, thus, found to be consensual in nature and, it cannot be said that the alleged act was done by him forcefully while alluring to marry with her.

4. Now, the age of the prosecutrix is to be ascertain whether she was minor at the relevant point of time or not in order to arrive to a conclusion whether she was competent to give her consent for the alleged of her consensual relations with him. According to the statement of the prosecutrix (PW-6), her date of birth is shown to be 02.08.1997, but her parents (PW-3 and PW-4) have, however, failed to state her actual date of birth. It is to be seen further that a *Dakhil-Kharij* register was seized from the Headmaster of her school, wherein, the date of birth was shown to be 02.08.1997, but in order to establish the same, none were examined. In absence of any evidence placed on record, it cannot be said that her date of birth was 02.08.1997, or was minor at the relevant point of time. In such circumstances, the trial Court has, therefore, not committed any illegality in acquitting him from the commission of the alleged crime, so as to call for any interference in this appeal.

5. The appeal, being devoid of merit is, accordingly, dismissed.

Sd/- Sd/-

(**Sanjay S. Agrawal**)
JUDGE

(Sanjay Kumar Jaiswal)
JUDGE

Nikita