CGHC010138472019 2026:CGHC:36748-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

ACQA No. 325 of 2019

State of Chhattisgarh, Through Station House Officer, Police Station- AJK Janjgir, District- Janjgir- Champa, Chhattisgarh.

... Appellant

versus

Umesh Kumar Bareth S/o Kartikram Bareth, Aged About 21 Years R/o Village- Siwani, Police Station- Champa, District- Janjgir- Champa, Chhattisgarh.

---- Respondent

SUNITA GOSWAMI

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Date: 2026.08.19 10:37:30 +0530

For Appellant/State : Mr. Akhilesh Kumar, Government Advocate

For Respondent : Mr. Vishwanath Shrivas, Advocate

DB: Hon'ble Shri Justice Sanjay S. Agrawal &

Hon'ble Shri Justice Sanjay Kumar Jaiswal

Judgment On Board

Per **Sanjay S. Agrawal, J.**

18.08.2026

1. This appeal has been preferred by the appellant/State under Section 378 of the Code of Criminal Procedure, 1973, questioning the legality and propriety of the judgment dated 16.05.2018, passed by the Special Sessions Judge(Atrocities), District Janjgir Champa (CG) in Special

Sessions Trial No.22/2017, whereby, the respondent- Umesh Kumar Bareth has been acquitted with regard to the offence punishable under Section 376(2)(n) of IPC and, also under Section 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, read with Section 6 of the Protection of Children from Sexual Offences Act, 2012.

2. From perusal of the record, it appears that the respondent- Umesh Kumar Bareth has been charged with regard to the offence mentioned herein-above, based upon the written report (Ex.P-1), lodged by the prosecutrix on 02.07.2017 before the Police Station, Champa, District Janjgir Champa, alleging *inter alia*, that after the death of her father, her mother has solemnized the marriage with someone else and thereafter, she (prosecutrix) shifted to her maternal grand-parents' house at village Siwani Bhadra, where the respondent, despite knowing her caste, allured her on the occasion of Dashera festival to marry and, while alluring as such, has committed sexual intercourse with her when her maternal grand-parents were not at home. It is alleged further that because of the alleged physical relations made by him, she became pregnant and on 02.07.2017, he refused to marry when she insisted for it. Based upon the alleged allegation, the respondent has been charged, as such.

3. In order to establish the alleged allegation, the prosecutrix was examined as PW-1, but perusal of para 10 of her testimony would reveal the fact that the respondent has not committed sexual intercourse with her forcefully and, in fact, it was made based upon

their mutual consent.

4. It is now to be seen as to whether she was minor at the relevant point of time or not, in order to ascertain whether she was competent to give her consent for her alleged relations with him.

5. In order to establish her minority, the prosecution has produced a Dakhil Kharij Register, marked as Ex.P-11/C and, according to the said Register, her date of birth was shown to be '30.09.2000', but in order to establish the alleged document, author of it who made the alleged entry was, however, not examined and instead, the In-charge Headmaster of the concerned School, namely, Shivnandan Sahu was examined as PW-4 and, a bare perusal of para 3 of his cross-examination, it appears that since the alleged entry, regarding her date of birth, was not made by him, therefore, he was unable to state under what basis, her date of birth was shown as such. No reliance, therefore, could be placed upon his testimony in order to hold that she was minor at the relevant point of time based upon the alleged entry made therein.

6. That apart, the maternal grand-parents of the prosecutrix, who were examined as PW-2 and PW-3, were not aware her date of birth. Therefore, in absence of any cogent and reliable evidence placed on record, it is difficult to hold that the prosecutrix was minor at the relevant point of time and, the trial Court has, thus, not committed any illegality in acquitting the respondent from the commission of the alleged crime, so as to call for any interference in this appeal.

7. The appeal being devoid of merit is, accordingly, dismissed at the admission stage itself.

Sd/-

(Sanjay S. Agrawal)
JUDGE

Sd/-

(Sanjay Kumar Jaiswal)
JUDGE

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