

High Court of Sikkim

Record of proceedings

**CRL.L.P No.08 of 2024**

State of Sikkim

Petitioner

*VERSUS*

Avinash Chettri

Respondent

Date : **28-05-2025**

CORAM : **THE HON'BLE MRS. JUSTICE MEENAKSHI MADAN RAI, JUDGE**  
**THE HON'BLE MR. JUSTICE BHASKAR RAJ PRADHAN, JUDGE**

For Petitioner                      Mr. S. K. Chettri, Additional Public Prosecutor.

For Respondent                      Ms. Mingma Lhamu Sherpa, Advocate (Legal Aid Counsel).

**ORDER**

Rai, J.

Heard Learned Additional Public Prosecutor. He submits that leave be granted to file the Appeal as the Learned Trial Court failed to appreciate that, the victim was a minor despite the ossification test having been exhibited and corroborated by Prosecution witnesses. The evidence of the victim, who was a sterling witness, was not taken into consideration and the Respondent was acquitted erroneously, although the evidence of the victim was duly corroborated by the evidence of PWs 2, 3, 4 and 5. The Court also failed to examine the provisions of Section 29 of the Protection of Children from Sexual Offences Act, 2012, resulting in prejudice to the Petitioner.

Learned Counsel for the Respondent objected to the Petition, urging that there are no errors in the findings of the Learned Trial Court.

Having heard *in extenso* and considered the submissions advanced, we are of the considered view that the Learned Additional Public Prosecutor has made out a *prima facie* case and raised arguable points upon which leave ought to be granted to file the Appeal.

Accordingly, leave to Appeal is allowed.

Register the Criminal Appeal.

Heard on admission.

Admit the Appeal.

Call for the records from the Learned Trial Court.

Let Paper-Books be prepared.

List on 17-09-2025.

**Judge**  
28-05-2025

**Judge**  
28-05-2025