

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Cr.M.P.No. 350 of 2015

State of Chhattisgarh **Vs.** Omprakash Tatiya & Anr.

09/09/2015	The matter is listed in default as the Petitioner has not removed default Nos. 1 and 3 pointed out by the Registry. On due consideration, the defaults pointed out by the Registry are hereby overruled. Heard on instant Cr.M.P. followed by Acquittal Appeal for leave to appeal against the judgment passed by the Sessions Judge, Balod, District Balod (CG) in Cr. Appeal No. 129/2013 and Cr. Appeal No.128/2013 whereby and whereunder the learned appellate Court acquitted the Respondents of the charges under Section 3/7 of the Essential Commodities Act, 1955 and Section 406 IPC to Respondent 1- Omprakash Tatiya and under Section 411 IPC to Respondent 2- Vikas Nahta. The Judicial Magistrate First Class, Balod, vide judgment dated 18.2.2011 in Cr. Case No. 281/2008 convicted and sentenced the Respondents for the charges as aforementioned. The instant Cr.M.P. has been filed under Section 378 (1)(b) of the Code of Criminal Procedure, 1973 (for short the 'Cr.P.C'.) whereby an appeal to the High Court from an original or appellate order of an acquittal passed by any Court can be filed with the leave of the High Court. The instant prayer for leave to appeal is against the order of acquittal passed in the judgment of appellate Court.	

The instant Cr.M.P. followed by Acquittal Appeal has been preferred after 374 days of its limitation. To condone the delay, I.A.No.1/2015 has been filed.

For the reasons mentioned in I.A.No.1/2015, in the considered view of this Court, the Petitioner/appellant has explained the delay satisfactorily. Consequently, I.A.No.1/2015 is allowed. Delay is condoned.

For the purposes of leave to appeal the material annexed i.e. judgment passed by the appellate Court, charge-sheet and the evidence adduced before the trial Court perused.

In the considered view of this Court, this is a fit case, where leave to appeal be granted. Consequently, leave is granted under Section 378 (3) Cr.P.C.

Registry is directed to list the matter under the head 'Acquittal Appeal'.

Record is available.

The Appellant is directed to pay PF within 7 days.

Let notice be issued to Respondents 1 and 2 through usual and registered mode, returnable within 4 weeks for their representation in the matter.

Registry is directed to list the matter immediately after the notice on the Respondents is served for hearing on admission.

Sd/
(Chandra Bhushan Bajpai)
Judge