

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 850 of 2016**

State of Chhattisgarh through the Police Station, Civil Lines, District Raipur, Chhattisgarh.

---- Petitioner**Versus**

1. Lakhan Lal Yadav S/o Nanki Ram, aged about 61 years, R/o Krishna Gaushala, Katora Talab, P.S. Civil Lines, District Raipur, Chhattisgarh.
2. Ramadhar Yadav S/o Itwari Yadav, aged about 47 years R/o Krishna Gaushala, Katora Talab, P.S. Civil Lines, District Raipur, Chhattisgarh.

---- Respondents

For Petitioner/State : Shri Garry Mukhopadhyay, Dy. G.A.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****12/08/2016**

Heard on I.A. No. 01/16, application under Section 5 of the Limitation Act for condonation of delay in filing the CrMP.

On due consideration and for the reasons assigned in the application, I.A. No.01 is allowed and the delay of 216 days in the filing of the instant Cr.M.P. is condoned.

Also heard on admission.

Admit.

The State has preferred this CrMP seeking leave to appeal against the judgment of acquittal passed by the CJM, Raipur in Criminal Case No.1001/2011 dated 07.09.2015 whereby the respondents have been acquitted from the offence under Sections 294, 341 read with section 34 and 506 Part II of IPC.

A perusal of the judgment passed by the Court below particularly the finding arrived at paragraph no.14 it clearly reflects that the Court

below after due consideration of the evidence which has come on record found that there were certain contradictions and omissions in the statement of the complainant Rikki Choudhary which gives rise to great element of doubt and accordingly, giving benefit of the same to the respondents acquitted them of the charge levelled against them.

On a specific query being put to the State counsel he also admits that on perusal of the statement of the complainant at a couple of place reflects certain omissions and contradictions which by itself creates doubt in the mind of the Court below. It is settled legal position that whenever a doubt is created, the benefit of the same should go in favour of the accused.

Taking into consideration the total evidence brought on record, this Court also does not find any illegality or infirmity committed by the Court below while passing the impugned order, acquitting the respondents of the offence under Sections 294, 341 read with section 34 and 506 Part II of IPC calling for any interference. Thus, no strong and good case is made out for grant of leave to appeal.

Consequently, the instant CrMP being devoid of merit deserves to be and is accordingly dismissed. As a result, the acquittal appeal also stands rejected.

Sd/-
(P. Sam Koshy)
JUDGE