

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CRMP No. 375 of 2017

State of Chhattisgarh **Versus** Smt. Shyam Bai Sahu and another

23/03/2017	Shri Om P. Sahu, Govt. Advocate for the applicant/appellant. The applicant had preferred the instant Cr.M.p. under the provision of Section 378(3) of the Code of Criminal Procedure, 1973 (in short 'the Code') along with memorandum of appeal under Section 378(1) of the Code within its limitation as the Special Judge under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (in short 'the Act, 1989'), North Bastar Kanker, C.G. vide judgment dated 15-12-2016 in Special Case No.19/2016 acquitted the respondents for the offence under Sections 294, 506 Part II of the IPC and Section 3(1)(x) of the Act, 1989 and Section 4, 5 of the Chhattisgarh Tonahi Pratadna Nivaran Act, 2005. Learned counsel for the applicant would submit that though the prosecution adduced sufficient evidence to prove the charges, but the Court below on a technical ground that specific act of the respondents are not stated and taken consideration for the omission and contradiction which is not material and acquitted the respondents. The applicant had good grounds for leave to appeal. Hence, leave may be granted and the matter may be heard on its merit. Perused the judgment dated 15-12-2016 and the statement of PW-1, the complainant, Smt. Prembati (PW-2), Smt. Manglibai (PW-3), Usha Nag (PW-4), Bhagirathi Kemro (PW-5). After the perusal of the evidence adduced by the prosecution, in the considered view of this Court, in the present matter leave to appeal should be granted to the applicant for	

preferring acquittal appeal against the said judgment of acquittal. Consequently, the instant Cr.M.P. is hereby allowed and disposed of.

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

Registry is further directed to call for the record of the Court below immediately through usual mode and fax mode.

The appellant is directed to pay P.F. within 7 days from now.

Let notice be issued to the respondents through usual mode and registered mode along with copy of the acquittal appeal and the documents annexed, returnable within four weeks.

List the matter immediately after service of notice to the respondents are complete for hearing on admission.

If the respondents avoid the service of notice, the Court may proceed for issuance of warrant as provided under Section 390 of the Code.

The Cr.M.P. disposed of.

Sd/-

(Chandra Bhushan Bajpai)
Judge