

HIGH COURT OF CHHATTISGARH AT BILASPUR

Order Sheet

Criminal Misc. Petition No. 147 of 2017

Chandram Rathore, S/o Late Shri Jooglal, aged about 76 years, R/o Juna Bilaspur, P.S. City Kotwali, Bilaspur, District Bilaspur (C.G.)

... Petitioner

Verus

Mansukhlal, S/o Shri Ghaniram Sahu, R/o Basant Vihar, SECL Office, Police Station Sarkanda, Bilaspur, District Bilaspur (C.G.)

... Respondent

02/02/2017	Mr. R.K. Tiwari, Advocate, for the Petitioner. Heard on I.A. No.1 of 2017, which is an application for condonation of delay in filing the present case. Finding the reasons assigned in the said application to be satisfactory and also for the fact that the Petitioner had promptly filed a Criminal Misc. Petition instead of an Acquittal Appeal earlier which was later on withdrawn and the present Criminal Misc. Petition has been filed resulting in the delay of 16 days in filing of the present case, I.A. No.1 is allowed. Consequently, the delay of 16 days occurred in the filing of the present application is condoned. Also heard on application for grant of leave to appeal. The present application has been preferred assailing the order passed by the Judicial Magistrate First Class, Bilaspur, in Complaint Case No. 309 of 2013 which stood dismissed for want of prosecution on 5.2.2016. For the fact that the legal position by now is well settled that on account of default of appearance of the complainant on one of the date of hearings the complaint case should not be dismissed in default, prima facie a strong case has been made out for grant of leave to appeal.	

Accordingly, the present application for grant of leave to appeal is allowed.

Registry is directed to register the present case as a regular Acquittal Appeal.

The Acquittal Appeal is also admitted for hearing.

Let notice be issued to the Respondent on payment of process fee by ordinary as well as registered mode, within a period of seven days from today.

List this case for further consideration immediately after the Respondent is served.

Meanwhile, record of the Court below be also requisitioned.

Sd/-
(P. Sam Koshy)
JUDGE