

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.351 of 2017**

- State Of Chhattisgarh Through District Magistrate, Surguja Chhattisgarh

---- Petitioner

Versus

- B.L. Pandey S/o Late Shri Ramji Pandey, Aged About 65 Years Occupation Retired Chief Medical And Health Officer, R/o Jarhabhata, Bilaspur District Bilaspur Chhattisgarh

---- Respondent

For Petitioner	: Shri Anupam Dubey, Dy. Govt. Advocate
For respondent	: Not noticed.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****20.3.2017**

Heard on the default pointed out by the Registry.

2. It is submitted on behalf of the petitioner that if the record of the court below is requisitioned, there may not be any necessity to file copy of other relevant exhibits, documents and copy of the statement of the prosecution witnesses.

3. On due consideration, default pointed out by the Registry is over ruled.

4. Also heard on IA No.01/17 under Section 5 of the Limitation Act for condone the delay in filing the instant Cr.M.P. followed by acquittal appeal as the instant matter has been preferred after 317 days of its limitation.

5. For the reasons mentioned in IA No.01/17 and the arguments advanced on behalf of the petitioner regarding

sufficient evidence adduced to prove the guilt of the respondent, this Court is of the considered view that the petitioner has satisfactorily explained the delay of 317 days. Consequently IA No.01/17 is hereby allowed and the delay is condoned.

6. Also heard instant Cr.M.P. finally.

7. By filing the instant Cr.M.P., the petitioner/State has submitted that under the instructions of the State government as per the provisions of Section 378(1)(b) of Cr.P.C., the petitioner has preferred leave of this Court for filing acquittal appeal against the respondent.

8. Learned counsel for the petitioner would submit that though sufficient evidence were adduced, the trial Court erred in law by affording benefit of doubt to the respondent. This is a good case for the petitioner to prove the guilt of the respondent, hence leave of this Court may be granted for filing the acquittal appeal under Section 378(3) of the Code.

9. Perused judgment dated 19.01.2016 passed by Special Judge under the Prevention of Corruption Act, 1988, Ambikapur, District Surguja.

10. On due consideration, leave to file the appeal is permitted. Consequently instant Cr.M.P. is allowed and leave is granted to the petitioner under Section 378(3) of the Code.

11. Registry is directed to list this matter under the head of acquittal appeal. Registry is further directed to requisite the

record of the court below immediately through usual and fax mode.

12. The appellant/petitioner is directed to pay PF within seven days from today under Rules 167 & 172 of the High Court of Chhattisgarh Rules 2007 for issuance of notice to the respondent through ordinary and registered mode returnable within four weeks along with a copy of acquittal appeal and the documents annexed.

13. List this matter for hearing on admission after the receipt of record and the respondent is served.

14. In case the appellant avoids service of notice, provisions of Section 390 of the Cr.P.C. may be explored.

15. Cr.M.P. disposed of.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE