

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.943 of 2016**

- Asha Soni W/o Durgesh Soni Aged About 25 Years R/o Korea Mines Godripara, Police Station Chirmiri, District Korea, Chhattisgarh.

---- Petitioner

Versus

- Durgesh Kumar Soni S/o Ramlochan Seth Aged About 30 Years R/o Constable C.R.P.F. D-148 Batalian, Bhupnagar, Kistwaad, District Dodha, Jammu Kashmir.

---- Respondent

For Petitioner : Shri Nishi Kant Sinha, Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****22.3.2017**

Instan Cr.M.P. followed by acquittal appeal has been preferred under Section 378(4) of the Code of Criminal Procedure, 1973 (for short 'the Code') as the Judicial Magistrate First Class, Chirimiri, District Korea vide judgment dated 25.6.2016 on a complaint case No.578/2014 acquitted the respondent by affording benefit of doubt for the charges under Section 498(A) of the Indian Penal Code.

2. Heard the Cr.M.P. for leave to appeal.

3. Learned counsel for the petitioner would submit that the court below erred in law by not appreciating evidence adduced by the complainant in its right perspective and despite evidence of cruelty gave benefit of doubt to the respondent which is not proper. The Court below ought to have convicted the respondent

for the charges. Hence, leave may be granted and the acquittal appeal may be heard on its merits.

4. Perused judgment dated 25.6.2016 and the statement of the witnesses including statement of the complainant (PW-1) and other witnesses. On perusal of the entire matter, in the considered view of this Court, leave to appeal be granted in the matter. Consequently, instant Cr.M.P. is hereby disposed of.

5. Registry is directed to register the matter under the head of acquittal appeal.

6. Record of the Court below is available.

7. The petitioner/appellant is directed to pay PF within seven days from today under Rules 167 & 172 of the High Court 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.

8. List this matter immediately after notice to the respondent is served for hearing on admission of acquittal appeal.

9. If the respondent avoids service of notice, the Court may consider for issuance of warrant to secure appearance of the respondent under the provisions of Section 390 of the Code.

10. Cr.M.P. disposed of.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE