

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.136 of 2018**

- Ajay Kenwra, S/o. Malikram Kenwra, aged about 50 years, R/o. Mopka, Police Station Sarkanda, Tehsil Bilaspur, Distt. Bilaspur (CG)

---- **Petitioner****Versus**

1. State of Chhattisgarh, Throught The Police Station AJAK, Bilaspur Distt. Bilaspur. (CG)
2. Yogesh Mishra, S/o. Laxmi Prasad Mishra, aged about 33 years, R/o. Village Mopka, Kutipara, PS Sarkanda, Distt. Bilaspur (CG)

---- **Respondents**

 For the Petitioner : Shri Atanu Ghosh, Advocate
 For respondent No.1/State: Shri Lav Sharma, Panel Lawyer
 For respondent No.2 : Shri SS Baghel, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****03.12.2018.**

1. Heard on IA No.01/2018 for condonation of delay in filing the instant CrMP.
2. For the reasons mentioned in the application, the same is allowed and the delay of 34 days in filing the petition is hereby condoned.
3. Also heard on application for grant of leave to appeal under Section 378(4) of CrPC.
4. This petition has been preferred against judgment dated 26.9.2017 passed by Special Judge under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short 'the Act 1989'), Bilaspur (CG) in Special Case No.12/2015 wherein the said Court acquitted the respondent for the charges

under Section 420 read with Section 34, 294 & 506 IPC and under Section 3(1)(x) of the Act, 1989.

5. As per the version of the complainant he is a member of Scheduled Caste while respondent No.2 namely Yogesh Mishra, is not a member of Scheduled Caste or Scheduled Tribe. Respondent No.2 entered into an agreement with the complainant for a sale of land situated at Patwari Halka No.22 bearing Khasra No.1841 area 0.97 acres for a consideration amount of Rs.13,58,000/-. The respondent paid Rs.5 lakh in advance and got executed the sale deed on the promise that rest of the amount shall be paid to the complainant but the same is not paid and when demand for the amount was made he used vulgar and unparliamentary language against the petitioner that is why the report was lodged. Matter was investigated and the trial resulted into acquittal.

6. Learned counsel for the petitioner submits that the trial Court has not appreciated the evidence properly and came to a wrong conclusion without marshaling the evidence. Therefore, finding of the trial Court is liable to be reversed.

7. Ramdarsh Dhuri (PW-1) has deposed before the trial Court that the entire amount of consideration was paid to the complainant at the time of registration. Janakram Kewat (PW-2) also deposed on the same line. Karthik Ram (PW-3) also deposed on the same line. All the three witnesses who were present at the time of registration have deposed in one voice that the entire sum was paid to the complainant. Bhagirathi (PW-7)

though deposed that the balance amount was not paid by respondent No.1 but in his cross-examination he admits that he was not present at the time of the registration.

8. Though complainant Ajay Kenwra submits that balance amount of Rs.8,58,000/- was not paid to him but his version is not supported by any of the witnesses of the registration. On the contrary they rebutted the version of the complainant and deposed that the entire amount was paid to the complainant on the date of registration. Looking to the entire evidence the trial Court opined that the story of the complainant is not established looking to the version of the independent witnesses who were present at the time of the registration.

9. For the other offence complainant deposed that Seenu Rao ad Ajay Sahu intervened during the incident, but Seenu Rao has not supported the version of the complainant. He deposed that the respondent is not known to him. Looking to the entire evidence the trial Court came to a conclusion that the charges levelled are not established. After reassessing the entire evidence this Court has no reason to record a contrary finding. It is not a case where the respondent should be called for full consideration of the petition.

10. Accordingly, the application for leave to appeal is rejected. Consequently, the CrMP stands dismissed.

**Sd/-
(Ram Prasanna Sharma)
JUDGE**