

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No. 587 of 2010**

- The State of MP (Now State of Chhattisgarh) Through Police Station, Dhourpur Distt. Surguja (CG)

---- Petitioner**Versus**

Dinesh Kumar S/o. Ramkumar Gupta, aged 30 years, R/o. Village Mitti Khurd PS Thourpur Distt. Surguja (CG)

---Respondent

For Petitioner/State	: Shri Ravi Bhagat, Dy. Govt. Advocate
For Respondent	: Shri CD Sharma, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****22.02.2021.**

1. This application for leave to appeal under Section 378(1) of the Code of Criminal Procedure, 1973 has been filed against the judgment of acquittal dated 26.9.1994 passed by Judicial Magistrate First Class, Ambikapur in Criminal Case No.80/1992 whereby the said Court acquitted the respondent for the charges under Sections 420, 467, 468 & 409 of the Indian Penal Code.

2. Case of the prosecution, in brief, is that the respondent while posted as Assistant Sales Man in Madhya Sahakari Samiti, by submitting forged and false receipt withdrew an amount of Rs.19,700/- thereby committed the offence. The learned trial Court on appreciating the oral and documentary evidence, reached a conclusion that the prosecution has failed to prove the aforesaid offences against the respondent and accordingly acquitted the respondent herein from the aforesaid offence. Against the said finding instant petition has been preferred seeking leave to prefer an appeal.

3. Learned counsel for the State/petitioner submits that it is a fit case to

grant leave to appeal against the order of acquittal as the respondent has been acquitted, by recording a finding which is perverse to the record.

4. I have heard learned counsel for the parties and perused the finding recorded by the trial Court.

5. The learned trial Court has clearly recorded a finding that the prosecution has failed to substantiate the above said charges against the respondent herein beyond reasonable doubt. The said finding recorded by the trial Court acquitting the respondent herein, is a finding based on evidence available on record, as such, the learned trial Court rightly acquitted the respondent herein/accused from the aforesaid offence for want of evidence, as such, I do not find any perversity in the finding of the learned trial Court and consequently, application for leave to appeal is hereby rejected.

6. Accordingly, instant CrMP is dismissed.

SD/-
(Sanjay K. Agrawal)
JUDGE