

## **MCRC-11747-2016**

*(THE STATE OF MADHYA PRADESH Vs GAJENDRASIGH @ GUJJARSINGH)*

**30-06-2017**

Shri Abhishek Soni, learned Dy. Govt. Advocate for the applicant/State.

Shri Anshul Shrivastava, learned counsel for the respondents.

Heard on I.A.No.10100/2016, an application for condonation of delay in filing this petition.

The petition is barred by 89 days.

Considering the reasons assigned in the application, the I.A. is allowed. Delay is condoned.

Arguments heard.

**1.** This petition under Section 378 (3) of Cr.P.C.is for granting leave to appeal against the order of acquittal passed by Special Judge, Neemuch in Criminal Case No.37/2013 dated 20/05/2016, whereby the learned Judge acquitted the respondents from offence under Sections 341, 323 read with Section 294, 506- Part-II of IPC and u/S 3(1)(10) of SC & ST (Prevention of Atrocities) Act, 1989.

**2.** The prosecution has examined as many as ten witnesses including the complainant and the injured persons. Their statements on material facts of the incident are contradictory to each other. Learned trial Court considered all the statements of the witnesses particularly in para 9 of the impugned judgment.

3. Considering in totality, the facts and the evidence, in my view, the circumstances relied upon by the prosecution are not established by convincing evidence and they are not sufficient to hold the accused respondents guilty of the offence charged against him. The evidence adduced by the prosecution falls short of reliability and unsafe to base conviction. Therefore, I am of the view that this is not a fit case for grant of leave to appeal. The leave is declined and the petition is **dismissed**, accordingly.

(VIRENDER SINGH)  
JUDGE