

**IN THE SUPREME APPELLATE COURT GILGIT-BALTISTAN,
GILGIT.**

Before:-

**Mr. Justice Dr. Rana Muhammad Shamim, Chief Judge.
Mr. Justice Javed Iqbal, Judge.**

Cr. PLA No. 45/2017

Civil Supply Officer Astore

Petitioner.

Versus

Muhammad Shah s/o Pehlwan r/o Nasirabad Tehsil Shouner
District Astore

Respondent.

PRESENT:-

1. The Advocate General alongwith Mr. Saeed Iqbal, Deputy Advocate General and Mr. Ali Nazar Khan Advocate-on-Record for petitioner.

DATE OF HEARING: - 24.05.2018.

ORDER.

Dr. Rana Muhammad Shamim, CJ..... This Criminal Petition has arisen out of the impugned order dated 28.09.2017 in Criminal Miscellaneous No. 146/2017 passed by the learned Chief Court whereby said Cr. Miscellaneous filed by the petitioner was dismissed by maintaining the acquittal order dated 31.03.2015 passed by the learned Trial Court Astore, hence, this petition for leave to appeal.

2. Briefly, the facts of the case are that on 03.11.2008, the petitioner i.e. Civil Supply officer Astore registered FIR No. 59/2008 under Section 406/409 PPC against the respondent at Police Station Astore for misappropriation of wheat 541 bags. After completion of the investigation, the challan of the case was submitted in the learned Trial Court i.e. Judicial Magistrate on

19.09.2009. The learned Trial Court framed charge. The respondent pleaded not guilty and claimed for trial. The prosecution in order to prove its case against the accused produced 09 PWs. Out of said 09 PWs only 05 PWs were examined. The respondent filed an application under Section 249-A Cr. PC in the learned Trial Court which upon hearing was accepted and the respondent was acquitted from the charges leveled against him vide order dated 31.03.2015. Being aggrieved by and dissatisfied with the said order of the learned Trial Court, the petitioner filed Cr. Revision Petition No. 01/2016 in the Court of learned District Judge Astore which upon hearing was dismissed vide order dated 10.05.2016. The petitioner being aggrieved filed Criminal Miscellaneous No. 146/2017 in the learned Chief Court which upon hearing was also dismissed by maintaining the acquittal order dated 31.03.2015 passed by the learned Trial Court Astore, hence, this petition for leave to appeal.

3. The learned Advocate General Advocate submits that the respondent mis-appropriated 541 bags of wheat which caused loss of Rs. 4,32,800/- to the Government exchequer. He also submits that the respondent deposited the said amount in the government account which directly implicates the respondent with the alleged offence. Per learned Advocate General, there is sufficient evidence to establish the guilt of the accused and the respondent may not be acquitted in circumstances. He submits that the learned Courts below have wrongly acquitted the respondent. He submits that the

concurrent findings of the learned Courts below may graciously be set aside and the case be remanded back to the learned Trial Court for recording statements of remaining concerned witnesses.

4. We have heard the learned Advocate General at considerable length, perused the material on record and gone through the concurrent findings passed by the learned Courts below. The learned Advocate General could not point out any illegality or infirmity in the said Concurrent findings. We, therefore, are not inclined to grant leave to appeal. The leave is accordingly refused. The concurrent findings passed by the learned Courts below are maintained.

5. The leave is refused.

Chief Judge.

Judge.