

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Cr.M.P. No.261 of 2015

Dimpi Ijardar **Verses** Ashok Kumar Patel

		Registry
05.8.2015	Shri Raghavendra Verma, counsel for the petitioner/appellant. Shri HS Patel, counsel for the respondent. Heard on IA No.01, application for condonation of delay in filing the appeal. The instant Cr.M.P. followed by the acquittal appeal has been preferred after 259 days of its limitation. On behalf of the applicant/appellant it is submitted that after the judgment of acquittal passed by Judicial Magistrate First Class, Raigarh in Case No.273/12, vide judgment dated 06.5.2014, the trial Court acquitted the respondent for the charges under Section 138 of the Negotiable Instruments Act, 1881. The plaintiff preferred appeal before First Additional Sessions Judge, Raigarh against the acquittal. The First Appellate Court vide its judgment dated 12.12.14 in Criminal Appeal No.329/14 held that the plaintiff/appellants may prefer acquittal appeal under Section 378(4) of the Code of Criminal Procedure, 1973 (for short 'the Code') before the High Court and dismissed the appeal as not maintainable. The complainant/applicant was in a bonafide mistake wrongly prosecuted the matter before the wrong forum as she was not aware of the legal proceedings of the case and she was a bonafide litigant. Hence, the delay in filing the instant Cr.M.P. followed by the acquittal appeal may be condoned. For the reasons mentioned in the IA No.01/15 and after perusal of the judgment of the Court below, this Court is of the view that delay in filing the instant Cr.M.P. followed by the acquittal appeal be condoned. Consequently, IA No.01 is allowed. Delay of 259 days in filing the Cr.M.P. followed by acquittal appeal is hereby condoned. Also heard the Cr.M.P. for leave to appeal.	

	On due consideration, this is a fit case where leave to appeal be granted. Consequently, the instant Cr.M.P. is allowed and leave to appeal is granted. The Registry is directed to register the case under the head of acquittal appeal. Also heard on admission. The appeal is admitted for consideration. Record is available. List this matter for final hearing in due course. Sd/- (Chandra Bhushan Bajpai) Judge	
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