

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

CRMP No.770 of 2013

Chandrashekhar **Versus** Vikas Kesharwani

16/09/2016	Shri Suresh Tandan, Advocate for the petitioner. None for the respondent, though represented. Perused the earlier order sheets. Also perused the petition filed by the petitioner/appellant under the provision of Section 378 (4) of the Code of Criminal Procedure, 1973 (in short 'the Code') for grant special leave to appeal from the order of acquittal. The petitioner/appellant is a complainant who had filed a complaint case bearing Criminal Case No.101/10 under Section 138 of the Negotiable Instruments Act, 1881 (in short 'the Act, 1881'). The trial Judge, Judicial Magistrate First Class, Takhatpur, Distt. Bilaspur vide judgment dated 25-06-2013 acquitted the accused/respondent as the complainant failed to comply the legal requirement as per Section 138 proviso (c) of the Act, 1881. As per mandatory provision of procedural law, question of grant of special leave is to be ascertained first and thereafter if leave is granted then only the said acquittal appeal is to be heard as per provision of the Code. Perused the impugned judgment and the documents annexed along with the instant Cr.M.P. followed by acquittal appeal. Also perused the mandatory provision of Section 138 proviso (c) of the Act, 1881 wherein it is required for payment of said amount of money to the payee within 15 days of receipt of said notice. Upon due consideration, in view of this Court, this is a fit case where leave to appeal should be granted.	

Consequently, the instant Cr.M.P. is allowed. Special leave is granted as required to appeal.

Registry is directed to register the matter under the head of Acquittal Appeal.

Record of the Court below be requisitioned through usual mode and fax mode.

Registry is directed to list the matter for hearing on motion immediately after receipt of the record.

The Cr.M.P. disposed of.

Sd/-
(Chandra Bhushan Bajpai)
Judge