

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P No. 773 of 2016**

Dashmesh Road Lines S/o Balihar Singh Aged About 43 Years Proprietor -
Jagjeet Singh, R/o H. I. G. -1, 2195, M. P. Housing Board, Jamul, Bhilai, Police
Station - Jamul, Distt. Durg Chhattisgarh

--- Petitioner**Versus**

Jugraj C. Singhvi S/o Suresh C. Singhvi Director - C. M. Alloys Pvt. Ltd. Police
Station - Khapoli, Distt. Raigarh (Maharashtra) 1003/a, Sumer Tower, 108,
Sheikhmoti Shah Lane, Police Station - Dongri, Majgaon, Mumbai,
(Maharashtra), Shop No. 7, 10/12, Farsi Bada, Near Alankar Cinema, Police
Station - Vitthal Bhai Road, Mumbai Maharashtra

-----Respondent

For Petitioner:	Smt	Fouzia	Mirza,	Advocate.
For Respondent:	None.			

Single Bench: **Hon'ble Shri P. Sam Koshy, J**
Order On Board

22.7.2016

1. The Petition has been preferred challenging the order dated 26.3.2016 passed by the Additional Sessions Judge, Durg in Criminal Revision No.000060/2016. By way of the said Revision Petition, the Court below has rejected the Revision Petition preferred by the Petitioner challenging the order dated 2.7.2013 in dismissing the complaint preferred by the Petitioner against the Respondent in a case under Section 138 of the Negotiable Instruments Act which got dismissed for want of prosecution.

2. Brief facts of the case are that the present Petitioner being the Complainant, had initiated a proceeding under Section 138 of the Negotiable Instruments Act before the Court of JMFC, Durg which was registered as Complaint Case No.588/2011. The case was registered and thereafter it was ordered for evidence of the Petitioner/Complainant. The grievance of the

Petitioner is that subsequent to the new Court being established at Bhilai-3, Distt. Durg, the present complaint filed by the Petitioner/Complainant got transferred and thereafter the matter could not be properly and effectively prosecuted by the Petitioner as he was not aware of the date of hearing before the new Court at Bhilai-3 and ultimately the complaint case got dismissed on 2.7.2013.

3. Against the said order, a Revision Petition was preferred by the Petitioner on 2.3.2016 and the Court below vide its impugned order dated 26.3.2016, had rejected the same on merits leading to the filing of the present Cr.M.P.

4. Learned Counsel for the Petitioner submits that it is a case where subsequent to the establishment of new Court, the Petitioner was not properly intimated about the date and place of hearing and therefore, he could not appear before the Court below and it was for this reason that the matter got dismissed for want of prosecution on 2.7.2013 and revisional Court.

5. Upon hearing the Counsel for Petitioner and on perusal of record and taking note of the entire facts and circumstances of the case, also the reasons assigned in the application for condonation of delay enclosed along with the Revision Petition, the Revisional Court had reached to the conclusion that no justifiable or plausible explanation has been put forth by the Petitioner for the delay caused in the filing of Revision Petition as from the records, it is apparent that the complaint case got dismissed for want of prosecution on 2.7.2013 and the Revision Petition was filed on 2.3.2016 i.e after a little less than 3 years.

6. Further, from the record, it appears that even after the matter was transferred to the Court of Bhilai-3, he had appeared in person along with his

Counsel on 9.4.2013 after being noticed by the new Court at Bhilai-3 which totally falsifies the submissions made by the Petitioner for seeking condonation of delay.

7. In the opinion of this Court, the Court below has not committed any illegality or infirmity in rejecting the complaint case. It is not a case where the discretion can be exercised in favour of a person who has not given proper plausible explanation for the default on his part.

8. If a person who is pursuing a criminal case loses interest in it and permits the matter firstly to get dismissed in default and subsequently goes into deep slumber and wakes up after more than a couple of years and further also is not in a position to give a satisfactory explanation for the delay, would not be entitled for any relief invoking the discretionary and inherent powers of the High Court under Section 482 Cr.P.C.

8. In view of above, the instant Cr.M.P, being devoid of merits, the same is accordingly dismissed.

Sd/-

(P. Sam Koshy)

JUDGE