

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL MISC. PETITION NO. 218 OF 2017

Suresh Jain (Parakh), S/o Late Shri Ranulal Jain, aged about 45 years, R/o Nayapara, Jagdalpur, District Bastar (C.G.)

... Petitioner/Appellant

Versus

1. Om Prakash Sharma, S/o Late Shri Moolchand Sharma, aged about 30 years, R/o H. No.61, Brijraj Nagar, Aganpur, Jagdalpur, District Bastar (C.G.)

2. State of Chhattisgarh, through District Magistrate, Jagdalpur, Bastar (C.G.)

... Respondents

For Petitioner/Appellant	:	Mr. Rajendra Tripathi, Advocate, under instructions of Mr. S.S. Baghel, Advocate.
For Respondent No.2-State	:	Mr. V.K. Tekam, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

16/02/2017

1. The present Criminal Misc. Petition has been filed seeking grant of leave to appeal against the judgment dated 30.8.2016 passed by Judicial Magistrate First Class, Bastar at Jagdalpur, in Complaint Case No. 859 of 2011, whereby the complaint filed by the present Petitioner under Section 138 of the Negotiable Instruments Act stood dismissed for want of prosecution.

2. Considering the fact that the date on which the matter stood dismissed for want of prosecution was a date for the appearance of Respondent No.1 and that it is already a settled position of law that the non-appearance of the complainant on one of the date of hearings when his appearance was not much of relevance, the complaint ought not to have been dismissed for want of prosecution, this Court is of the opinion that a strong case has been made out for grant of leave to appeal.

3. Accordingly, the present Criminal Misc. Petition seeking grant of leave to appeal is allowed.

4. Registry is directed to register the present case a regular Acquittal Appeal.
5. Heard on Acquittal Appeal.
6. The Acquittal Appeal is admitted for hearing.
7. Let notice be issued to Respondent No.1 on payment of process fee by ordinary as well registered mode, to be paid within seven days from today.
8. Call for the record of the Court below.
9. List the Acquittal Appeal after Respondent No.1 is served.

Sd/-
(P. Sam Koshy)
Judge

/sharad/