

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.349 of 2017**

- Ajay Shukla S/o Sudama Prasad Shukla, Aged About 44 Years
R/o Green Park Colony, Jarhabhatha, Police Station Civil Line
Bilaspur Chhattisgarh

---- Petitioner

Versus

- Arun Kumar S/o D. N. Chaudhary, Aged About 52 Years R/o
Sarju Bagicha, C. B. Heights, Police Station City Kotwali,
Bilaspur Chhattisgarh

---- Respondent

For Petitioner : Shri Akhil Mishra, Advocate.
Respondent not noticed.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****20.3.2017**

Registry has pointed out the default.

2. Learned counsel for the petitioner would submit that he will cure the default pointed out by the Registry as in Sl. No.02 during the course of the day and also prayed that by calling record of the Court below there may not be any need to file the copy of the statement of the witnesses and other relevant exhibited documents and the default as mentioned in Sl. No.3 may be overruled.

3. On due consideration, default pointed out as in Sl. No.03 is hereby overruled.

4. The petitioner is further directed and permitted to remove the default as in Sl. No.02 during the course of the day.

5. Also heard on instant Cr.M.P. which is for grant of special leave to appeal against the judgment of acquittal passed in complaint case No.909/15 by Judicial Magistrate First Class, Bilaspur (CG) vide judgment dated 30.01.2017.

6. The instant Cr.M.P. followed by acquittal appeal has been preferred within its limitation.

7. Learned counsel for the petitioner would submit that on the basis of ground taken in the Cr.M.P., special leave maybe granted to the petitioner for hearing of acquittal appeal against the respondent. As the trial Court though held that there was some transactions, issuance of cheque, dishonour of the cheque, shown reliance for the respondent/accused for the element of doubt and with this held that the respondent/accused is not liable under the provisions of Section 138 of the Negotiable Instruments Act, 1881 and thereby With this, acquitted him after affording benefit of doubt.

8. After perusal of judgment dated 30.01.2017, in the considered view of this Court in the matter, leave to appeal be granted. Consequently, instant Cr.M.P. is allowed. Registry is directed to register the matter under the head of acquittal appeal.

9. The appellant is directed to pay PF within seven days from today under Rules 167 & 172 of the High Court of Chhattisgarh Rules, 2007 for issuance of notice to the respondent through ordinary and registered mode, returnable within four weeks along with a copy of acquittal appeal and the documents annexed.

10. Registry is further directed to call the record of the Court below through usual and fax mode, immediately.

11. List this matter for hearing on admission of acquittal appeal after the receipt of record of the Court below and the respondent is served.

12. It is further observed that in case the respondent/accused avoids service, provisions of Section 390 of the Cr.P.C. may be explored.

13. Cr.M.P. disposed of.

Sd/-

(Chandra Bhushan Bajpai)
JUDGE