

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Cr.M.P. No. 348 of 2016

Jaiprakash Agrawal **Versus** Sheshdev Vibhar

16.01.2017	Ms. Sharmila Singhai, counsel for the petitioner. Shri Raghvendra Pradhan, counsel for the respondents. Heard on I.A. No.01/16 for condonation of delay. Note of the Registry shows that there is only 12 days delay in filing of the Cr.M.P seeking for grant of leave to appeal against the judgment of acquittal dated 14.12.2015 whereby a case under Section 138 of the Negotiable Instrument Act has been rejected on merits preferred by the petitioner herein. Counsel for the petitioner submits that if the leave is not granted, the petitioner would be rendered remediless to assail the said order of acquittal passed in favour of the respondents. She further submits that the application seeking for condonation of delay has been moved on more than one ground; that the petitioner is a rustic villager, he had not sufficient fund in filing the appeal and he was not aware of the limitation for filing the petition. However, counsel for the respondents vehemently opposed the application for condonation of delay. According to him, all these grounds are not sustainable in the light of the evidence which has come on record. Having considered the rival contentions put forth by the counsel for the parties and the period of delay which is only 12 days and also taking note of the fact that the petitioner does not have any other remedy for assailing the impugned order of acquittal, this Court finds it to be a	

fit case for condoning the delay in filing the CrMP.

Accordingly, I.A. No.01 is allowed and the delay in filing the Cr.M.P. stands condoned.

The present CrMP has been filed under section 378 (4) of Cr.P.C. seeking for grant of leave to appeal.

Counsel for the petitioner submits that the evidence which has been adduced before the Court below in support of the application under Section 138 of NI Act has not been properly appreciated by the Court below and the impugned order has been passed in a mechanical manner without going through the legal position. She further submits that the order passed by the court below is also in contravention to the settled legal position and therefore, the same warrants interference.

On due consideration, this Court is of the opinion that a strong case has been made out for grant of leave to appeal against the impugned judgment of acquittal dated 14.12.2015.

Accordingly, the present CrMP is allowed. Leave as prayed for is granted. Office is directed to register the CrMP as a regular Acquittal Appeal.

Heard the Acquittal Appeal on admission.

Admit.

Call for the records.

Since Shri Raghvendra Pradhan, Advocate has already entered appearance on behalf of the respondents, notice to the respondents stands dispensed with.

Let this matter be listed for final hearing in due course.

Sd/-

P. Sam Koshy
Judge