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HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 788 of 2017**

Ram Avatar Agrawal (Proprietor Sandesh Jewellers) S/o Shri Ramnivash Agrawal, Aged About 62 Years R/o Sarafa Line, Kharsia, Tehsil & Thana Kharsia, District Raigarh, Chhattisgarh.

---- Petitioner**Versus**

1. Vinay Pandey S/o Ram Kumar Pandey, R/o Tandapara, Thana Jobi, Tehsil Kharsia, District Raigarh, Chhattisgarh.
2. State Of Chhattisgarh, Through District Magistrate, Raigarh, Chhattisgarh.

---- Respondents

For the Petitioner : Shri Harsh Wardhan, Advocate.
 For Respondent No.2/ State : Shri Neeraj Sharma, Deputy G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****09.10.2017**

1. Heard.
2. This petition has been brought by the petitioner under Section 482 of the Code of Criminal Procedure with a prayer to set aside the orders passed by the trial Court and the Revisional Court below.
3. It is submitted by counsel for the petitioner that the petitioner had filed a complaint for prosecution of respondent No.1 under Section 138 of the Negotiable Instruments Act. At the stage of taking cognizance in the case, order dated 29.9.2015 was passed by the trial Court stating that the complaint has been filed after the expiry of the limitation period without any prayer made for condonation of delay, hence, it is dismissed. Criminal Revision No. 115 of 2015 preferred before the Sessions Court, Raigarh has

been decided by the First Additional Sessions Judge, Raigarh on 30.12.2016 and the revision petition was dismissed, hence, this petition.

4. It is submitted by counsel for the petitioner that, as pointed out by the trial Court, the point of delay in filing the complaint is arguable as the limitation starts from the day the notice to payee is received. It is submitted that in the interest of justice the petitioner may be allowed to move an application for condonation of delay in filing the complaint before the trial Court.

5. Considering the submissions made for providing proper opportunity to the petitioner to prosecute the case, this petition is allowed at the motion stage. The impugned order and the order passed by the trial Court dismissing the complaint case are set aside. The petitioner is directed to appear before the trial Court on **07.11.2017** for filing an application for condonation of delay in filing the complaint case. The trial Court is directed to consider and pass the orders in accordance with law.

6. In view of above, the petition stands disposed off.

Sd/-

(Rajendra Chandra Singh Samant)
Judge