

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Cr.M.P. No.1128 of 2016

Dalit Kumar Kurre Vs. Motiram Bandhe & Anr.

17/08/2017	Smt. Indira Tripathi, counsel for the applicant. Shri P.K. Tulsian, counsel for respondent No.1. Shri Sangarsh Pandey, Dy.G.A. for the State. Heard on application for condonation of delay. Perused the order of Cr.M.P. No.577/2016. It appears that initially complaint filed under Section 138 of Negotiable Instrument Act was dismissed for want of prosecution on 10/09/2015. Against that revision was filed by the applicant. Revision was allowed by 2nd Additional Sessions Judge, Bastar Jagdalpur bearing Criminal Revision No.32/2015. Said order was subject of challenge in Cr.M.P. No.577/2016 wherein this High Court has held that dismissal of complaint having effect of acquittal, acquittal appeal should have been preferred. High court in para 7 of the order has observed that the right of the respondent/complainant stands reserved for preferring a proper regular appeal against the order passed by the Magistrate dismissing the complaint for want of prosecution on 10/09/2015. Hence, this Cr.M.P. has been preferred with a prayer to leave to appeal. Considering the fact it appears that there was bonafide mistake occurred in preferring revision before the 2nd Additional Sessions Judge and eventually High Court by its order dated 29/07/2016 has given liberty and reserved power to the applicant herein to proceed to file the acquittal appeal, Thereafter, acquittal appeal has been preferred after delay of 297 days. Considering the reasons and the facts of this case, I am inclined to condone the delay in filing the Cr.M.P. Consequently, delay in filing the Cr.M.P. of 297 days having been explained properly is condoned. Heard on application for leave to appeal. On due consideration, taking into fact that for non-appearance

complaint under Section 138 of Negotiable Instrument Act was dismissed, Cr.M.P. is allowed.

Registry is directed to register the case as acquittal appeal.

List the case for further hearing after two weeks.

Sd/-

(Goutam Bhaduri)

JUDGE

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