

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 1200 of 2017

Sanjay Kumar Gupta S/o Shri B. R. Gupta, Aged About 47 Years
Caste Baniya, R/o Shitlapara Kanker, P. S. Kanker, Tahsil & District
Kanker Chhattisgarh (Complaint)

---- Petitioner

Versus

Surendra Kumar Sahu S/o Shri Radhelal Sahu, R/o Junglepara
Sihawaroad Nagri Gandhi And Near Electricity Office, P. O. / P. S. /
Tahsil Nagri, District Dhamtari Chhattisgarh

---- Respondent

For petitioner - Shri Ritesh Verma, Advocate.

For Respondent – Shri A.S. Rajput, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

16/11/2017

1. This instant petition is against the order dated 29/07/2017 wherein it shows that one revision which was preferred by the petitioner Sanjay Kumar Gupta was got dismissed as withdrawn.

2. Perusal of the petition would show that a complaint which was filed by the petitioner under section 138 of Negotiable Instruments Act was dismissed for want of prosecution on 6/05/2017. Thereafter, said order was subject of revision before the revisional court bearing Criminal Revision No.9/2017 wherein by an order dated 29/07/2017 revision was dismissed as withdrawn. In any case order of dismissal of the original complaint under section 138 of Negotiable Instruments Act before the CJM would amount to acquittal and discharge of the accused. Though order is not placed before this court, only it has been prayed that order of the revisional court dated 29/07/2017 may be set aside wherein revision preferred by the petitioner was withdrawn. Prayer as has been made that this court may set aside the order of the Sessions Judge dated

29/07/2017 and direct the Sessions Judge to decide the case on merit.

The power under section 482 of Cr.P.C. of this court cannot confer a jurisdiction on the Sessions Judge when originally accused have been discharged and stands acquitted for the reason of dismissal of the complaint. Against an acquittal an appeal is the remedy u/s 378 (4) of Cr.P.C. In view of the said provisions remanding a case to Sessions Judge to adjudicate upon the legality of acquittal can not be ordered to cloth the Sessions Judge with appellate power to hear the appeal against acquittal.

3. In view of the above and since the petition has no merit, it is dismissed accordingly.

Sd/-

(Goutam Bhaduri)

JUDGE