

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No.05 of 2018**

- Manmohan Shukla S/o Late Chandrabhan Shukla, Aged About 45 Years R/o Sheetlapara Korar, Police Station Korar, Tahsil Bhanupratappur, District North Bastar Kanker, Chhattisgarh....Complainant.

---- **Petitioner****Versus**

- Sahadur Ram Sevta S/o G. R. Sevta, Occupation Teacher, High School, Telavat, Post And Police Station Korar, Tahsil Bhanupratappur, District North Bastar Kanker, Chhattisgarh.

---- **Respondent**

 For the appellant : Shri DN Prajapati, Advocate
 For respondent : None

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment On Board****28.9.2018.**

1. This appeal has been preferred under Section 378(4) of the Code of Criminal Procedure, 1973 against Order dated 22.05.2017 passed by Chief Judicial Magistrate, North Bastar Kanker (CG) in an unregistered complaint wherein the court below dismissed the complaint for want of prosecution.

2. A complaint under Section 138 of the Negotiable Instruments Act, 1881 was filed by the appellant in which the respondent was not served. From the order sheet dated 22.5.2017, it is not clear whether any summon was issued or not, whether the summon was served or not or its service is awaited.

3. When the case is at the initial stage, the trial court should have made efforts for service of summon but that was not done. Dismissal of the complaint was not the only option before the trial

Court. As per Section 256(1) of the CrPC, the trial Court can adjourn the hearing of the case to some other date.

4. In view of this Court, all the cases filed for adjudication should not be sent to record room without hearing the parties. Efforts should be made to call both the parties, adduce evidence and then decide the issues between the parties on merits. Looking to the factual matrix of the case, the order passed by the trial Court is not sustainable and the same is hereby set aside. The trial Court is directed to proceed with the case according to the law and after service of summon decide the matter on its merits. The appellant shall appear before the trial Court for further proceedings on 02.11.2018.

5. Consequently, the Acquittal appeal is allowed.

Sd/-
(Ram Prasanna Sharma)
JUDGE