

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 903 of 2018**

Sanjay Agrawal, S/o Shri Chandrawanshi Lal Agrawal, Aged About 52 Years, R/o Baniyapara, Purani Basti, Raipur, Tahsil and District-Raipur (C.G.)

---- Petitioner

Versus

Singhal Enterprises Through Pawan Singhal, S/o Late Niranjana Lal Singhal, R/o Sabji Bazar, Beside Amin Para School, Purani Basti, Amin Para, Raipur (C.G.)

---- Respondent

For Petitioner : Mr. Aman Kesharwani, Advocate.
For Respondent : None though served.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

03/10/2018

1. Heard on I.A. No. 01/2018, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application, the same is allowed and delay of 223 days in filing the petition is condoned.
3. Also heard on application filed under Section 378(4) of the Code of Criminal Procedure, 1973 for grant of leave to appeal.
4. On due consideration, leave is granted.
5. This petition is preferred under Section 378 (4) of the Code of Criminal Procedure, 1973 against order dated 07.07.2017 passed by learned Judicial Magistrate First Class, Raipur (C.G.) in Complaint Case No. 1312/2015, wherein, the said court dismissed the complaint for want of prosecution.

6. It appears from the order-sheet dated 17.04.2015 to 20.04.2017 that the proceedings were on before the trial court for one reason or other and the parties were represented for about two years before the trial court. Dismissal of complaint for non-appearance for single hearing on 07.07.2017 was not only option for the trial court under Section 256 of Cr.P.C. The trial court has another option to adjourn the case for some future date that is not done. All the case should be decided on merit, therefore, dismissal for single default is not sustainable.
7. Accordingly, order passed by the trial court is set aside allowing the petition. The trial court is directed to proceed with the case on merit.
8. It is directed that the parties shall appear before the trial court on 27th November, 2018 and the trial court shall proceed further.

Sd/-
(Ram Prasanna Sharma)
Judge