

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Acquittal Appeal No. 176 of 2018**

- Shankar Singh Kothari S/o Kanhaiya Lal Ji Kothari Aged About 42 Years Occupation Agriculture, R/o Kamthi Line District Rajnandgaon Chhattisgarh, District : Rajnandgaon, Chhattisgarh

---- Appellant**Versus**

- Shri Bhuneshwar Singh S/o Ramangina Singh Aged About 48 Years Head Constable C. G. Police R/o Janta Quarter, Janta Colony, Lakholi, Tehsil And District Rajnandgaon, Office City Police Station G. E. Road, Rajnandgaon Chhattisgarh, District : Rajnandgaon, Chhattisgarh

---- Respondent

For Appellant	:	Shri Rajendra Tripathi, Advocate
For Respondent	:	Shri Samir Singh, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma
Order on Board

23/10/2018

1. The instant Acquittal Appeal has been filed against the order dated 23.1.2018, passed by the Judicial Magistrate First Class, Rajnandgaon (CG) in Complaint Case No.29061/2009, wherein the said Court has dismissed the complaint for want of prosecution filed under Section 138 of the Negotiable Instruments Act, 1881.

2. The case was fixed for evidence of the appellant on 23.1.2018 and in his absence, the trial Court terminated the proceedings. Dismissal of complaint in absence of the complainant was not the only option before the trial Court. As per Section 256 Cr.P.C., Court can adjourn the case for some

other day. Every case should be heard on merits and it should not be sent to Record Room without deciding the issues between the parties, but that is not done. Therefore, the order passed by the trial Court is not sustainable and the same deserves to be set-aside.

3. Accordingly, the appeal is allowed and the order dated 23.1.2018 passed by the Judicial Magistrate First Class, Rajnandgaon (CG) in Complaint case No.29061/2009 is hereby set-aside. Now the matter is remanded back to the trial Court to proceed with the case in accordance with law.

4. Both the parties shall appear before the trial Court for further proceedings on 12th December, 2018. The trial Court will provide opportunity to adduce evidence to the appellant for not more than six months.

5. With the above directions, the Acquittal Appeal stands disposed of.

Sd/

(Ram Prasanna Sharma)

Judge