

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1069 of 2018**

Ravi Marketing Through Hansh Kumar Agrawal, S/o Rajmal Agrawal, Aged About 45 Years, R/o S.R 4 Kundla Vasundhara City, Ambikapur, District - Surguja (C.G.)

---- **Petitioner**

Versus

Tara Marketing Through Shashikant Rai, R/o Ward No. 23 Behind Pipe Factory, Khairbar Road, Ambikapur, District - Surguja (C.G.)

---- **Respondent**

 For Petitioner : Mr. Nishi Kant Sinha, Advocate.
 For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

31/08/2018

1. Heard on I.A. No. 01/2018, application for condonation of delay in filing the petition which is supported within an affidavit of Hansh Kumar Agrawal.
2. For the reasons mentioned in the application, the same is allowed and delay of 05 days in filing the petition is condoned.
3. Leave to appeal is granted.
4. This is an acquittal appeal filed under Section 378 (4) of the Code of Criminal Procedure, 1973 against the judgment dated 07.03.2018 passed by learned Judicial Magistrate First Class, Ambikapur, District- Surguja (C.G.) in Complaint Case No. 1452/2015, whereby the complaint filed by the appellant/ complainant was dismissed for want of prosecution and respondent was acquitted of the charges under Section 138 of Negotiable Instrument Act, 1881.
5. The complaint was filed on 08.10.2015 and it was fixed for stating particular of the offence of which respondent was accused.

6. Learned counsel for the petitioner submits that the case was earlier proceeded before another court and it was transferred to the present court on 23.02.2018. On 07.03.2018 court reader told to counsel for the complainant that he is searching the file and thereafter the complaint was dismissed for want of prosecution.
7. In view of this Court, it was not compulsory for the trial court to dismiss the complaint in absence of his counsel. As the matter was fixed for stating particular of the offence to the respondent, the court should have stated particular and proceeded with the case.
8. Taking into over all facts and circumstances of the case, order passed by the trial court/ Judicial Magistrate First Class dated 07.03.2018 is set aside. The case is remanded back to the trial court for adjudicating the matter afresh from the stage of stating particular to the respondent.
9. It is directed that both the parties shall appear before the trial court/ Judicial Magistrate First Class, Ambikapur, District- Surguja (C.G.) on 10th October, 2018 and the trial court shall proceed further.
10. In view of the above, the petition stands disposed of.

Sd/-
(Ram Prasanna Sharma)
Judge