

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1111 of 2018**

Rajkumar Yadav S/o Shri Baliram Yadav Aged About 35 Years
 R/o Bhagat Singh Azad Nagar, Tifra, P.S. Sirgitti, Bilaspur,
 District Bilaspur Chhattisgarh. --- **Petitioner**

Versus

Chandrakumar Tiwari S/o Gokul Prasad Aged About 50 Years
 R/o Bhagat Singh Azad Nagar, Tifra, P.S. Sirgitti, Bilaspur,
 District Bilaspur Chhattisgarh. --- **Respondent**

For the applicant : Mr. N.K. Vyas, Advocate.

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****25.06.2018**

1. The present applicant seeking leave to appeal has been preferred u/s 378(4) of the Code of Criminal Procedure against the judgment of acquittal. The judgment of acquittal u/s 138 of the Negotiable Instruments Act was passed by the JMFC, Bilaspur on 06.10.2017 and it was a private complaint. Consequently, as per sub-section (5) of section 378 of the Code of Criminal Procedure, the limitation of 60 days will be counted from the date of order of acquittal.
2. It appears that against the acquittal order dated 06.10.2017, the appeal was preferred before the Additional sessions Judge in Criminal case No.186/2017 which was dismissed on 14.03.2018.
3. Learned counsel for the petitioner submits that since the wrong forum was chosen, the same can always be considered by the High Court. Sub-section (4) of section 378

of Cr.P.C., shows that when the order of acquittal is passed in a case instituted upon a complaint and the leave to appeal is granted, the complainant may present an appeal to the High Court. Sub-section (5) of section 378 of Cr.P.C., puts a bar and Such leave to appeal should be presented within 60 days of passing of the acquittal order if it is a private complaint. The record would show that originally the acquittal order was passed on 06.10.2017, thereafter, if any appeal was preferred before the Additional Sessions, Bilaspur, it would be without jurisdiction. In this petition seeking leave to appeal, no prayer has been made to condone the delay of 60 days. Therefore, under the circumstances, this Court cannot exercise jurisdiction to condone the delay.

4. Accordingly, the petition is dismissed.

Sd/-

**GOUTAM BHADURI
JUDGE**