

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1213 of 2018**

- Lukeshwar Sahu S/o Bhuvan Lal Sahu Aged About 41 Years R/o- Village-Todopar, Tahsil- Gurur, District- Balod, Chhattisgarh, District : Balod, Chhattisgarh

---- Petitioner

Versus

- Sheetal Ram Sahu S/o Rambharosa Sahu Aged About 42 Years R/o- Ranwa, Post- Tarsinwa, Police Station- Arjuni, District- Dhamtari, Chhattisgarh., District : Dhamtari, Chhattisgarh

---- Respondent

For Petitioner	:	Shri Sanjeev Kumar Sahu, Advocates
For Respondent	:	Shri Shishir Dixit, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma
Order on Board

29/10/2018

1. Heard on I.A.No.1/2018, application for condonation of delay in filing the petition.
2. For the reasons mentioned in the application, same is allowed and delay of 49 days in filing the petition is hereby condoned.
3. Also heard on the application for grant of leave to appeal filed under Section 378 (4) of the Cr.P.C.
4. On due consideration, leave is granted.
5. This petition is preferred against the order dated 22.2.2018 passed by the Judicial Magistrate Second Class, Dhamtari (CG) in Complaint Case No.532/2016, whereby the complaint filed by the complainant under Section

138 of the Negotiable Instruments Act, 1881 has been dismissed for want of prosecution.

6. From the order sheet of the trial Court, it is not clear for what purpose the case was fixed for 22.2.2018. 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 and the trial Court has dismissed the case without assigning any reason. Therefore, the order passed by the trial Court is not sustainable and the same deserves to be set-aside.

7. Accordingly, the petition is allowed and the order dated 22.2.2018 passed by the Judicial Magistrate Second Class, Dhamtari (CG) in Complaint Case No.532 /2016 is hereby set-aside. The matter is remanded back to the trial Court for adjudicating the case afresh in accordance with law by providing opportunity of adducing evidence to both the parties.

8. Both the parties shall appear before the trial Court for further proceedings on 14th December, 2018.

Sd/

(Ram Prasanna Sharma)

Judge

