

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1686 of 2018**

- Smt. Neena Jain W/o Dr. Pradeep Kumar Basak Aged About 48 Years R/o 304, Golcha Residency, Shankar Nagar, Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Petitioner**Versus**

1. J.S.T. Homes Pvt. Ltd. Through Director Tarak Ranjan Manjhi And Shikha Manjhi R/o 3rd Floor Sai Chambers, Gurudwara Road Shyam Nagar, Telibandha Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. Shri Tarak Ranjan Manjhi Director J. S. T. Homes Pvt. Ltd R/o Kohinoor Villa, Near St. Josephs School Amlidih, Raipur Chhattisgarh, District : Raipur, Chhattisgarh
3. Smt. Shikha Manjhi Director J. S. T. Homes Pvt. Ltd R/o Kohinoor Villa, Near St. Josephs School Amlidih, Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondents

For Petitioner	:	Mr. Basant Dewangan, Advocate.
For Respondents	:	None though served.

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board****26/11/2018**

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 320 days in filing the petition is hereby 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 11.7.2017, passed by Judicial Magistrate First Class, Raipur, District- Raipur (C.G.)

in Complaint Case No. 18049/2014, whereby the said court has dismissed the complaint filed under Section 138 of the Negotiable Instrument Act, 1881 for want of prosecution.

6. It appears that the trial Court has dismissed the complaint on account of absence of the petitioner/complainant. Dismissal of complaint was not the only option before the trial Court. The trial Court could have adjourned the case for some other day as per provisions of Section 256 (1) Cr.P.C. In view of this Court, cases should be decided on merits and should not be sent to record room without deciding the issues between the parties, but that is not done in the present case. Dismissal of complaint for single default is not proper, therefore, the finding of the trial Court 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 in accordance with law after providing opportunity of adducing evidence to the petitioner and decide the issues between the parties on merit.
8. The petitioner shall appear before the trial court on 5th February, 2019 and the trial court shall proceed further.

Sd/
(Ram Prasanna Sharma)
Judge