

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Misc. Petition No.1785 of 2018**

- Mohan Lal Jaiswal S/o Shri Kalikaram Jaiswal Aged About 27 Years R/o Village Sawandabra, Tahsil Takhatpur , District Bilaspur, Chhattisgarh.

---- **Petitioner****Versus**

- Shri Taup Singh Aged About 45 Years R/o Village Gunsari, Tahsil Takhatpur, District Bilaspur, Chhattisgarh.

---- **Respondent**

 For the Petitioner : Shri Vivek Sharma, Advocate
 For the respondents : None

Hon'ble Shri Justice Ram Prasanna Sharma
Order On Board

29.10.2018.

1. Heard on IA No.01/18 for condonation of delay in filing the petition.
2. For the reasons mentioned in the application, the same is allowed and the delay of 22 days in filing the petition is hereby condoned.
3. Also heard on application for leave to appeal under Section 378(4) of CrPC.
4. This appeal has been preferred against Order dated 22.5.2018 passed by Judicial Magistrate First Class, Takhatpur, distt. Bilaspur (CG) in Criminal Complaint Case No.90/2017 under Section 138 of the Negotiable Instruments Act, 1881 wherein the said Court dismissed the complaint for want of prosecution.

5. It appears from the order sheet of the trial Court that the case was fixed for record the particulars of the execution of the offence to the respondent since 02.4.2017 and a number of adjournments have been granted by the trial Court for recording the particulars of the offence to the respondent, but that was not done and lastly on 22.5.2018 the complaint was dismissed for want of appearance of the petitioner.

6. Dismissal of the complaint was not the only option before the trial Court. It could have adjourned the case for some other date. It is not clear from the order sheet of the trial Court as to why particulars of the offence was not stated to the respondent on various dates. Looking to the factual matrix of the case, the order passed by the trial Court is not sustainable and the same deserves to be set aside and the trial Court be directed to adjudicate the matter after providing opportunity of hearing to both the side.

7. Accordingly, the petition is allowed and the order dated 22.5.2018 passed by the trial Court is hereby set aside. Now the case is remanded back to the trial Court for adjudicating the matter afresh.

8. The petitioner shall appear before the trial Court on 13.12.2018 for further proceedings.

Sd/-
(Ram Prasanna Sharma)
JUDGE