

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2196 of 2018**

U. K. Steel Art, Proprietor Umakant Sahu, S/o Rambharosa Sahu,
Aged About 33 Years, R/o Bus Stand Kurud, Police Station Kurud,
District- Dhamtari (C.G.)

---- Petitioner

Versus

Vinod Kumar Sahu, S/o Hemlal Sahu, Aged About 33 Years, R/o
Village Bhatheli, P. S. Kurud, District- Dhamtari (C.G.)

---- Respondent

For Petitioner : Mr. R.S. Patel, Advocate.
For Respondent : None.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

23/10/2018

1. Heard on application filed under Section 378(4) of the Code of Criminal Procedure, 1973 for grant of leave to appeal.
2. On due consideration, leave is granted.
3. This petition is preferred under Section 378 (4) of the Code of Criminal Procedure, 1973 against order dated 07.08.2018 passed by Judicial Magistrate First Class, Kurud, District- Dhamtari (C.G.) in Complaint Case No. 766/2016, whereby the said court dismissed the complaint filed under Section 138 of the Negotiable Instrument Act, 1881 for want of prosecution.
4. In the present case, matter was posted on 07.08.2018 for recording evidence of the petitioner. Due to absence of the petitioner, the trial court terminated the proceeding. Dismissal of complaint was not only option for the trial court under Section 256 of Cr.P.C. The trial court has another option to

adjourn the case for some future date. Therefore, order passed by the trial court is not sustainable.

5. Accordingly, order passed by the trial court is set aside allowing the petition. The trial court is directed to provide an opportunity to the petitioner to adduce evidence and as per version of learned counsel for the petitioner, they will produce all their witnesses within a period of four months from first date of posting for evidence.
6. The petitioner shall appear before the trial court on 13th December, 2018. Thereafter, the trial court will issue notice to the respondent and after appearance of the respondent, the matter shall be disposed of in accordance with law.

Sd/-
(Ram Prasanna Sharma)
Judge