

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 2128 of 2018**

- Smt. Sarita W/o Shri Ramnaresh Prasad Aged About 34 Years D/o Shri Budhram Rajmal Agrawal, Caste- Dhobi, R/o Takiya Road, Ambikapur, Police Station And Tehsil- Ambikapur, District- Surguja, Chhattisgarh.

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

- Shri Ramnaresh Prasad S/o Late Ramvruksh Aged About 37 Years Caste- Dhobi, R/o Village- Soagayi, Post- Sogayi, Police Station- Saiyadraja, District- Chandouli, Uttar Pradesh.

---- **Respondents**

For Petitioner : Shri Nishikant Sinha, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma
Order on Board

10/10/2018

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 80 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 14.5.2018 passed by the Judicial Magistrate First Class, Ambikapur (CG) in an unregistered

case. The complaint case was filed on 16.5.2014. On that day the complainant was present before the said Court. On 10.11.2014, 15.7.2016, 9.8.2016, 9.11.2016, 13.1.2017 and 18.9.2017 the complainant was present before the trial Court, but she has not been examined upon oath by the trial Court. As per Section 200 Cr.P.C., the Magistrate is under obligation to examine on oath the complainant but that is not done.

6. 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. 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 14.5.2018 passed by the Judicial Magistrate First Class, Ambikapur (CG) in an unregistered case is hereby set-aside. Now the matter is remanded back to the trial Court for adjudicating the case afresh by providing opportunity to the complainant to record her statement and examine other witnesses and proceed with the case in accordance with law.

8. The petitioner shall appear before the trial Court for further proceedings on 30th November, 2018.

Sd/

(Ram Prasanna Sharma)

Judge

