

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1401 of 2018**

- Chandra Prakash Dewangan S/o Late Shri Bishal Ram Dewangan Aged About 60 Years R/o Dharamnagar, Pachpedi Naka Raipur District Raipur Chhattisgarh

---- Petitioner**Versus**

- Smt. Pratima Soni D/o Shri Raghuvansh Prasad Soni Aged About 26 Years R/o Lal Bahadur Shastri Ward Mayapur Ambikapur District Surguja Chhattisgarh

---- Respondent

For Petitioner : Shri Vivek Sharma, Advocate

For Respondent : Shri V.K. Pandey, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****18/02/2019**

1. Heard.
2. The present petition is against the order dated 11.06.2018 wherein a revision preferred by the petitioner was dismissed prima facie on the ground of limitation by dismissing an application under Section 5 of the Limitation Act.
3. Learned counsel for the petitioner submits that the petitioner had filed a revision against the framing of the charge which was delayed by 6 months. He further submits that the petitioner had handed over the entire file & papers to his lawyer, but because of some negligence by the lawyer, the same could not be filed within time, therefore, the petitioner cannot be held liable or punished for the fault of the lawyer. He further submits that only a limited prayer is made by the petitioner to condone the delay and direct the revisional Court to hear the case on merits.

4. Learned counsel for the respondent opposes the the same vehemently.
5. Perused the impugned order dated 11.06.2018. Perusal of the order shows that the framing of charge dated 24.09.2016 was under challenge which was under Sections 379 & 420 IPC. It is contended during the arguments that the petitioner had preferred a complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as the Act, 1881) and after registration of the same as an offsuit of the same the respondent has filed the complaint which was registered under Section 379 & 420 IPC and both the cases i.e. the complaint filed under Section 138 of the Act, 1881 by the petitioner and the complaint filed by the respondent under Sections 379 & 420 IPC are interlinked. Having perused the record and having regard to the facts and taking into the issue involved and it is stated that the petitioner had handed over the file to file the revision against the framing of charge to his Advocate, who did not file the same within specific period of time and it was delayed by six months. In the facts of this case, it appears that the petitioner may be given an opportunity to prosecute his cause on the merits as the petitioner cannot be punished for the fault of his lawyer. Therefore, in the given facts of this case the order dated 11.06.2018 is set aside. The delay in filing the revision against the charge is condoned subject to payment of cost of Rs.1000/- to the respondent. The parties shall appear before the revisional Court on 25th of March, 2019. Thereafter, the revisional Court shall be obliged to decide the case on merits.
6. Accordingly, the petition stands disposed of.

Sd/-

Goutam Bhaduri
Judge

Ashu