

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Acquittal Appeal No.532 of 2019

Rohit Kumar Gupta, now aged about 28 years, son of V.K. Gupta, resident of in front of Police Petrol Pump, Nehru Nagar, Raipur, District Raipur, Chhattisgarh

---- Appellant

versus

Smt. Indira Dey, aged about 40 years, wife of C.Y. Rao, resident of 27/291, Near Urvi Provision Store, New Shanti Nagar, Civil Line, Raipur, District Raipur, Chhattisgarh

--- Respondent

For Appellant : Shri C.R. Sahu, Advocate
For Respondent : Ms. Laxmeen Kashyap, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

19.9.2019

1. The instant appeal has been preferred against the order dated 12.10.2018 passed by the Judicial Magistrate First Class, Raipur in Criminal Complaint Case No.1338 of 2017, whereby the Trial Court has acquitted the Respondent of the charge under Section 138 of the Negotiable Instruments Act as the case was dismissed for want of prosecution.
2. It appears from the order-sheet of the Trial Court that the Appellant/Complainant was not present before the Court on the date of hearing, i.e., 12.10.2018. From the order-sheet, it also reveals that on that date particulars of the offence were to be explained to the Respondent/accused. Therefore, on that date, personal appearance of the Appellant/Complainant was not required. Despite that, the Judicial Magistrate First Class has

dismissed the complaint case for want of prosecution.

3. Dismissal of the complaint case was not the only option before the Trial Court. The Trial Court could have adjourned the case to some other date as per the provisions of Section 256(1) of the Code of Criminal Procedure. Apart from this, from the order-sheet of the Trial Court, it reveals that the date on which the complaint case was dismissed was the date fixed for explaining the particulars of the offence to the Respondent/accused. Therefore, on that date, personal appearance of the Appellant/Complainant was not required. Hence, the impugned order dated 12.10.2018 is not sustainable.
4. Consequently, the appeal is allowed. The impugned order dated 12.10.2018 passed by the Trial Court is set aside. The matter is remanded to the Trial Court. The Trial Court is directed to proceed with the case and decide the issues on merit in accordance with law after securing presence of both the parties. Both the parties are directed to appear before the Trial Court on 22.10.2019 for further proceedings.
5. Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
JUDGE