

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2141 of 2018

Dr. Kabir Dwivedi, S/o. Late Arun Kumar Dwivedi, Aged About 47 Years,
R/o. Shyam Nagar, Near Santoshi Mandir, Raipur, Telibandha, Raipur,
Tahsil & District Raipur (C.G.).

---- Petitioner

Versus

Smt. Anjana Makhija, W/o. Shri Manohar Lal Makhija, Aged About 49
Years, R/o. Guru Tej Bahadur Nagar, Mahavir Nagar, Police Station
Telibandha, Tahsil & District Raipur (C.G.).

---- Respondent

For Petitioner : Mr. Pushpendra Kumar Patel, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

14.01.2019

Heard

1. The present petition is against the order dated 18.09.2018 passed in Criminal Revision No.286/2018 by the learned Sessions Judge, Raipur, whereby the right to lead evidence by the defence/accused under Section 138 of Negotiable Instrument Act was closed. By the said order of the revisional Court dated 18.09.2018, the order of the trial Court dated 03.07.2018 has been affirmed.
2. Learned counsel for the petitioner would submit that the petitioner who was accused facing trial under Section 138 of Negotiable Instrument Act and filed an application to lead his evidence as initially because of the inadvertence, the Reader of the Court has reported that the accused do not want to lead evidence whereas some date has been prayed for. He submits that having realized, the said application has been filed by the accused/ petitioner before the trial Court, which was dismissed by the trial Court without any reason. Therefore, he stated that under the

circumstances, once chance may be given to the petitioner to lead the evidence as otherwise he may suffer an irreparable loss which could not be compensated in any terms.

3. Perused the order of the Judicial Magistrate and also the order of the revisional Court. It has been submitted before this Court that the case is still pending for final argument before the Court on 25.01.2019. The reason as has been stated that there has been some mistake had occurred and wrong submission has been made. It is stated no prejudice would be caused to the complainant if one chance is given to the petitioner/ accused.
4. Under the circumstances, it is directed that the petitioner is given one chance to lead his evidence before the Court below in defence. It is further directed that the petitioner shall appear before the Court below on 25th itself and shall adduce his all evidence. No further adjournment shall be granted and failing to lead any evidence, the petitioner shall not be entitled to lead further evidence and the case may be decided on the facts available on record. If the evidence is adduced, the trial Court shall be obliged to consider the same on merit and during final argument.
5. With such observation, the petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge