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HIGH COURT OF CHHATTISGARH, BILASPUR

Acquittal Appeal No.135 of 2016

Guman Chand Jain, son of late Shri Dhanraj Jain, aged about 50 years, resident of Sadar Line, Dondilohara, Police Station Dondilohara, District Balod, Chhattisgarh

---- Appellant

versus

Sheikh Moed Siddiqui, S/o Sheikh Malool Siddiqui, aged about 50 years, R/o Opposite Mahavir Goshala, Dondilohara, Police Station Dondilohara, District Balod, Chhattisgarh

--- Respondent

For Appellant : Shri B.P. Singh, Advocate
For Respondent : Shri Pragalbha Sharma, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

24.9.2019

1. The instant appeal has been preferred against the order dated 30.5.2016 passed by the Judicial Magistrate First Class, Dondilohara, District Balod in Criminal Case No.10 of 2016, whereby the Judicial Magistrate has dismissed the case for want of prosecution and acquitted the Respondent/accused of the charge under Section 138 of the Negotiable Instruments Act.
2. I have heard Learned Counsel appearing for the parties and perused the record with due care.
3. It appears from the order-sheets of the Trial Court that on 13.1.2016, the complaint case was registered and the matter was fixed for appearance of the Respondent/accused. On 30.5.2016 also, the matter was fixed for appearance of the

Respondent/accused. On that date, after receiving of summons, the Respondent was present before the Court, but the Appellant/Complainant was not present. Therefore, the Trial Court dismissed the complaint case for want of prosecution.

4. From the order-sheets of the Trial Court, it is clear that on 30.5.2016, personal appearance of the Appellant/Complainant was not required. The case was fixed only for the appearance of the Respondent/accused. Therefore, the Trial Court has wrongly dismissed the complaint case.
5. Consequently, the appeal is allowed. The impugned order dated 30.5.2016 is set aside. The Trial Court is directed to proceed with the case in accordance with law and decide the same on merits. Both the parties are directed to appear before the Trial Court on 6.11.2019.
6. 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