

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 127 of 2020**

Dharmendra Kumar Kannouje S/o Late Shri Ravichand Kannouje
Aged About 43 years Resident of- Behind Naagorao Shesh School,
Juna Bilaspur, Police Station- City Kotwali, Tahsil and District-
Bilaspur Chhattisgarh. **---- Petitioner**

Versus

Shri Rakesh Kannouje S/o Late Madhoprasad Kannouje Aged
About 45 years Resident of Lily Chowk, Purani Basti, Transformer
Gali, Raipur, Police Station- Purani Basti, Laiy Chowk, Tahsil and
District Raipur Chhattisgarh. **---- Respondent**

For petitioner : Mr. Rishikant Mahobia, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma

Order on Board**17.01.2020.**

1. Heard on application under Section 378(4) of CrMP for grant of leave to appeal.
2. On due consideration, leave is granted.
3. As the respondent is yet to appear before trial Court, therefore, his presence before this Court is not required.
4. This petition is preferred against the order dated 4th of December, 2019 passed by Learned Judicial Magistrate First Class, Bilaspur (C.G.) in Criminal Complaint Case No. 714/2018, filed under Section 138 of the Negotiable Instruments Act, 1881 (for short, "the Act") wherein the said Court dismissed the complaint as premature.
5. In the matter of Yogendra pratap singh Vs. Savitri pandey & Another, reported in (2014) 10 Supreme Court Cases 713, it is held (Para 41) that if a complaint is premature then remedy is only to file a fresh complaint.

6. In view of the law laid down by Hon'ble the Apex Court, the appellant is at liberty to file a fresh complaint before the trial Court for the same cheque which was dishonored.
7. With the above observation, the instant petition stands disposed of.

Sd/-

(Ram Prasanna Sharma)
JUDGE

N.Mohle