

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved on 08.11.2019

Delivered on 30.01.2020

Acquittal Appeal No.329 of 2019

- Rajesh Agrawal, Son of late Mohan Lal Agrawal, aged about 52 years, R/o. Mahamaya Chowk, Ambikapur, Police Station and Tahsil Ambikapur, Distt. Surguja (CG)

---- Appellant**Versus**

1. Sandeep Agrawal @ Sandeep Bansal, son of Rajendra Prasad Agrawal, aged about 40 years, Proprietor Agrawal Kirana Store and General Store, R/o. Shastri Ward Ambikapur, Police Station and Tahsil Ambikapur Distt. Surguja (CG)
2. State of Chhattisgarh, Through the Collector Surguja, Distt. Surguja (CG)

---Respondents

For appellant : Shri Malay Jain, Advocate on behalf of
Shri RS Patel, Advocate
For respondent No.1 : Shri Rakesh Pandey, Advocate

Hon'ble Shri Justice Ram Prasanna Sharma**CAV Judgment**

1. The appeal is directed against judgment dated 27.02.2019 passed by First Additional Sessions Judge, Ambikapur Distt. Surguja (Chhattisgarh) in Criminal Appeal No.67/2018 arising out of order dated 20.6.2018 passed by Judicial Magistrate First Class, Ambikapur Distt. Surguja in Criminal Complaint No.184/2014 whereby the trial Court dismissed the complaint filed under Section 138 of the Negotiable Instruments Act, 1881 on the ground that the complaint has been filed before the cause of action arose, therefore, the same is premature.

2. The only question for consideration of this appeal is what remedy is available to the appellant when the complaint filed by him is premature. In the matter of **Yogendra Pratap Singh Vs. Savitri Pandey & Another**, reported in **(2014) 10 SCC 713**, it is held by the Hon'ble Supreme Court (para 41) that if a complaint is premature then remedy is only to file a fresh complaint.

3. In view of the law laid down by Hon'ble the Apex Court in the aforesaid case, the appellant is at liberty to file a fresh complaint before the trial Court for the same cheque which was dishonoured.

4. With the above observation, the appeal is allowed.

Sd/-
(Ram Prasanna Sharma)
JUDGE