

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1779 of 2019**

Neeraj Dubey, S/o Krishan Kumar Dubey, Aged About 35 Years, R/o Mahamaya Road, Ratanpur, Police Station- Ratanpur, District- Bilaspur (C.G.)

---- **Petitioner**

Versus

Prakash Malchandani @ Mitthu, S/o Keshavlal Malchandani @ Babaji, R/o Hemunagar Chowk, Sindhipara, Near Mama Shop, House of Babaji, Police Station- Torwa, District- Bilaspur (C.G.)

---- **Respondent**

 For Petitioner : Mr. Ravindra Sharma, Advocate.
 For Respondent : None though served.

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

06/02/2020

1. Heard on application filed under Section 378 (4) of the Code of Criminal Procedure, 1973 for grant of leave to appeal.
2. On due consideration, leave is granted.
3. This petition is preferred under Section 378 (4) of the Code of Criminal Procedure, 1973 against order dated 03.05.2019 passed by Judicial Magistrate First Class, Bilaspur, District- Bilaspur (C.G.) in Criminal Case No. 440/2016, whereby the said court dismissed the case filed under Section 138 of the Negotiable Instrument Act, 1881 for want of prosecution.
4. It appears from order-sheet of the said court that though number of opportunities have been provided to adduce evidence, the petitioner did not avail the same, but the fact remains that the issue between the parties is not decided.

5. In view of this Court, when the complainant/ petitioner is willing to adduce evidence, his case should be decided on merit. Accordingly, the order passed by the trial court is set aside allowing the petition. The trial court is directed to provide opportunity to the petitioner to adduce evidence and the petitioner shall be provided only two opportunities to adduce evidence.
6. The petitioner/ complainant shall appear before the trial court on 4th March, 2020 and the trial court shall proceed further.

Sd/-
(Ram Prasanna Sharma)
Judge