CGHC010432082026 2026:CGHC:46434

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRR No. 1545 of 2026

- Yogesh Agrawal S/o Shri Pradeep Agrawal Aged About 48 Years R/o Kamla Regency, Station Road, Raipur Chhattisgarh

... Applicant

versus

- Santosh Shukla S/o Shri Gorelal Shukla Aged About 65 Years R/o Beside Mahamaya Trading, Sector 1, Agroha Colony, Mahadev Ghat Road, Raipur Chhattisgarh

... Respondent

(Cause title, as taken from CIS)

For Applicant	:	Mr. Tapan Kumar Chandra, Advocate.
For Respondent	:	--

(Hon'ble Shri Justice Naresh Kumar Chandravanshi)

Order on Board

03/11/2026

1. Heard on admission.

2. This criminal revision has been preferred by the applicant under Section 438 read with Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, “BNSS”), challenging the judgment dated 31.08.2026 passed by the learned 11th Upper Sessions Judge, Raipur,

District Raipur (C.G.), in Criminal Appeal No.295/2025 (Annexure-A/4), whereby the appeal preferred by the applicant/complainant was dismissed, thereby upholding the order dated 20.06.2025 passed by the learned Judicial Magistrate First Class (for short, “JMFC”), Raipur, in Criminal Complaint Case No.2864/2020 (*Yogesh Agrawal vs. Santosh Shukla*).

3. Facts of the case, in brief, are that the applicant/complainant filed a criminal complaint against the respondent/accused under Section 138 of the Negotiable Instruments Act, 1881 (for short, “NI Act”), on 26.11.2020 before the JMFC, Raipur. Upon issuance of notice, the respondent/accused appeared before the Court. The particulars of the charge were read over and explained to him vide order dated 09.11.2021. Thereafter, the case was fixed for recording the evidence of the complainant on 29.11.2021. Subsequently, the case was adjourned from time to time for recording the complainant's evidence. Ultimately, the statement of the complainant was recorded on 29.12.2022; however, his cross-examination could not be conducted as the defence counsel sought time. Thereafter, the case was fixed repeatedly for recording the evidence of the complainant, but he did not appear before the Court. Lastly, the case was fixed for the presence of the applicant/complainant on 20.06.2025, but he failed to appear before the Court despite repeated calls. Consequently, his complaint was dismissed for want of prosecution. The appeal preferred by the applicant/complainant was also dismissed by the Appellate Court vide impugned judgment dated 31.08.2026. Hence, the applicant/complainant has preferred the instant criminal revision.

4. Learned counsel for the applicant submits that the statement of the applicant/complainant was recorded on 29.12.2022, but the defence counsel sought time for his cross-examination; therefore, his cross-examination could not be completed. He further submits that when the case was taken up for hearing on 17.04.2025, it was fixed for recording the deposition of the complainant on 20.06.2025. However, inadvertently, counsel for the applicant/complainant noted the next date of hearing as 26.06.2025. Consequently, the applicant/complainant and his counsel could not appear before the Court when the case was taken up for hearing on 20.06.2025. He further submits that the non-appearance of the applicant/complainant and his counsel on 20.06.2025 was bona fide. Hence, he prays that the impugned judgment dated 31.08.2026 passed by the Appellate Court and the order dated 20.06.2025 passed by the JMFC be set aside/quashed and the matter be remitted to the Trial Court to provide an opportunity to the applicant/complainant to adduce evidence, with a further direction to the Trial Court to decide the case on merits.

5. The applicant/complainant has filed copies of the order sheets, starting from the first order sheet dated November 2020 to the last order sheet dated 20.06.2025, maintained by the JMFC, Raipur. Perusal of the aforesaid order sheets shows that the complaint filed by the applicant/complainant under Section 138 of the NI Act was registered on the same day and notice was issued to the respondent/accused. After the respondent/accused entered appearance, the case was fixed for explaining the particulars of the charge, which were read over and explained to the respondent/accused on 09.11.2021. Thereafter, the case was fixed for recording the evidence of the complainant. The

applicant/complainant was granted about eight opportunities to record his evidence, and he eventually appeared for the said purpose on 29.12.2022. On that date, his examination-in-chief was recorded; however, his cross-examination was postponed on account of the prayer made by the defence counsel, subject to payment of costs. Thereafter, the case was fixed about fifteen times for recording the deposition of the applicant/complainant. Ultimately, the case was fixed for recording his evidence on 20.06.2025. However, when the case was taken up for hearing on 20.06.2025 and the parties were called, neither the applicant/complainant nor his counsel appeared before the Court. The accused also failed to appear. Thereafter, the case was called out twice again on the same day, but none of the parties appeared. Consequently, the complaint was dismissed for want of prosecution at about 5:00 p.m.

6. Though the Court ought to decide a case on merits rather than dismissing it on technical or trivial grounds, in the instant case, as mentioned above, the conduct of the applicant/complainant indicates that he was completely negligent in pursuing his own case, as despite being granted repeated opportunities, he failed to appear before the Court for recording his evidence. Having regard to such conduct of the applicant/complainant, the contention of learned counsel for the applicant that the wrong date of hearing was inadvertently noted by his counsel on 17.04.2025 is not reliable, as the order sheet dated 17.04.2025 does not bear the signature of the counsel representing the applicant/complainant. Rather, it appears to bear only the signature of the defence counsel.

7. Having considered the highly negligent and irresponsible conduct and behaviour of the applicant/complainant in pursuing his own case, as well as the long pendency of the matter for about four years without any meaningful progress, this Court does not find any perversity or illegality in the dismissal of the complaint for want of prosecution. Hence, this Court is not inclined to entertain the present criminal revision. Accordingly, the same is dismissed at the motion stage.

8. Pending interlocutory application(s), if any, stands disposed of.

Sd/-

(Naresh Kumar Chandravanshi)

Judge

Rukhsar