

(2019) 09 CHH CK 0130
Chhattisgarh High Court
Case No: Acquittal Appeal No. 532 Of 2019

Rohit Kumar Gupta

APPELLANT

Vs

Indira Dey

RESPONDENT

Date of Decision: Sept. 19, 2019

Acts Referred:

- Negotiable Instruments Act, 1881 - Section 138
- Code Of Criminal Procedure, 1973 - Section 256(1)

Hon'ble Judges: Arvind Singh Chandel, J

Bench: Single Bench

Advocate: C.R. Sahu, Laxmeen Kashyap

Final Decision: Allowed

Judgement

Arvind Singh Chandel, J

1. The instant appeal has been preferred against the order dated 12.10.2018 passed by the Judicial Magistrate First Class, Raipur in Criminal

Complaint Case No.1338 of 2017, whereby the Trial Court has acquitted the Respondent of the charge under Section 138 of the Negotiable

Instruments Act as the case was dismissed for want of prosecution.

2. It appears from the order-sheet of the Trial Court that the Appellant/Complainant was not present before the Court on the date of hearing, i.e.,

12.10.2018. From the order-sheet, it also reveals that on that date particulars of the offence were to be explained to the Respondent/accused.

Therefore, on that date, personal appearance of the Appellant/Complainant was not required. Despite that, the Judicial Magistrate First Class has

dismissed the complaint case for want of prosecution.

3. Dismissal of the complaint case was not the only option before the Trial Court. The Trial Court could have adjourned the case to some other date

as per the provisions of Section 256(1) of the Code of Criminal Procedure. Apart from this, from the order-sheet of the Trial Court, it reveals that the

date on which the complaint case was dismissed was the date fixed for explaining the particulars of the offence to the Respondent/accused.

Therefore, on that date, personal appearance of the Appellant/Complainant was not required. Hence, the impugned order dated 12.10.2018 is not

sustainable.

4. Consequently, the appeal is allowed. The impugned order dated 12.10.2018 passed by the Trial Court is set aside. The matter is remanded to the

Trial Court. The Trial Court is directed to proceed with the case and decide the issues on merit in accordance with law after securing presence of

both the parties. Both the parties are directed to appear before the Trial Court on 22.10.2019 for further proceedings.

5. Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.