

(2018) 09 CHH CK 0252

Chhattisgarh High Court

Case No: Criminal Misc. Petition No. 761 Of 2018

Gravity Trexim Pvt. Ltd.

APPELLANT

Vs

Sneh Enterprises

RESPONDENT

Date of Decision: Sept. 14, 2018

Acts Referred:

- Code Of Criminal Procedure, 1973 - Section 378(4)

Hon'ble Judges: Ram Prasanna Sharma, J

Bench: Single Bench

Advocate: Shobhit Mishra

Final Decision: Disposed Of

Judgement

Ram Prasanna Sharma, J

1. Heard on application for grant of leave to appeal under Section 378(4) of CrPC.

2. On due consideration, leave is granted.

3. This acquittal appeal has been preferred under Section 378(4) of the Code of Criminal Procedure, 1973 against Order dated 12.02.2018 passed by

Judicial Magistrate First Class, Raipur in Criminal Case No.1849/2016 wherein the said Court dismissed the complaint of the appellant for non

payment of process fee.

4. The case was registered on 24.8.2016 and from the order sheet dated 24.11.2017 it appears that summon was issued to the respondent. From the

order sheet of the trial Court it is not clear whether the summon issued on 24.11.17 for appearance of the respondent on 12.02.2018 was served or

not. The trial Court has not verified whether the summon is served or not. If the summon issued on 24.11.2017 was served on the respondent or

service of summon is awaited on that date, it was not proper for the trial Court to dismiss the complaint for non payment of process fee. The trial

Court should have ascertained the fact whether the summon was issued on 27.11.2017 to serve on the respondent or not. But that was not done.

Therefore, the order of the trial Court is not sustainable and the same is hereby set aside.

5. The trial Court is directed to ascertain whether the summon issued on the previous date is served or not or its service is awaited. If the summon is

not served then the trial Court may direct for payment of process fee. The appellant shall appear before the trial Court on 02.11.2018 for further

proceedings.

6. Accordingly, the petition stands disposed of.