

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Misc(Pet.) No. 8557/2022

Laxmi Lal S/o Modiram Puddoth (Menaria), Aged About 54 Years,
C/o Mehta General Store Mainar Via Kheroda Tehsil Vallabhnagar
Dist. Udaipur

-----Petitioner

Versus

1. State Of Rajasthan, Through PP
2. Jakyudeen (Raju Bhai), Prop. Kasubhai Wala Steels Office
Hospital Road Bhinder Dist. Udaipur

-----Respondents

For Petitioner(s)	:	Mr. Abhishek Charan
For Respondent(s)	:	Mr. Laxman Solanki, PP

HON'BLE MR. JUSTICE FARJAND ALI

Order

06/12/2023

1. Dismissing a complaint for non-prosecution is provided under Section 256 of the CrPC and as a necessary consequence of which, the accused gets acquittal. Sub-clause 4 of Section 378 of the CrPC provides a criminal leave to appeal against the judgment of acquittal. Here in this case, a complaint for offence under Section 138 of the NI Act came to be dismissed by the learned trial Court for want of prosecution. The complainant preferred a revision petition and the learned Additional Sessions Judge No.2, District Udaipur has allowed the same and remanded back the matter to the learned trial Court for continuation of the proceeding. In my considered view, the order dated 05.10.2021 passed by the learned Additional Sessions Judge No.2, District Udaipur is

patently illegal and it seems that the learned Sessions Judge had exceeded its jurisdiction.

2. Admit.

3. Issue fresh notice to the respondent No.2 for final disposal, returnable on 25.01.2024.

4. In the meanwhile, the effect and operation of the order dated 05.10.2021 passed by the learned Additional Sessions Judge No.2, District Udaipur in Criminal Revision Case No.32/2017 shall remain stayed and no further proceeding shall be undertaken in the matter until further direction is passed by this Court in this regard.

(FARJAND ALI),J

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