

Order on IA U/sec.142(b) of NI Act.

The present application is filed by the complainant seeking to condone the delay of 22 days in filing the complaint.

In the accompanied affidavit it is stated that, after issuance of notice to the accused, accused has promised to repay the amount to the complainant but failed to repay the same. Further submitted that he was suffering from severe fever and cold and advised to take rest since 10-9-2022, but it could not be cured nearly for a month. Hence, he was not able to instruct his counsel to file the complaint. Hence, there is 22 days delay in filing the complaint. Further it is submitted that, the delay in filing this private complaint is not intentional but bonafide one. If this private complaint does not allowed this complainant will suffer substantial loss and hardship. Therefore, he prayed to allow the application.

Notice was issued to accused on this application and it was duly served and thereupon the accused has not appeared before the Court and he has not challenged the said application.

Heard the counsel. Perused the reasons assigned.

The complainant has filed the above PCR for the offence punishable u/Sec.138 of N.I. Act against the accused. But, there is a delay of 22 days in respect of filing of above PCR. The complainant has specifically stated that after issuance of notice to the accused, accused has promised to repay the amount to the complainant but failed to repay the same. Further submitted that he was suffering from severe fever and cold and advised to take rest since 10-9-2022 but it could not be cured nearly for a month. Hence, he could not contact his advocate in time and he could not file the above private complaint and therefore there is delay of 22 days.

On perusal of records grounds mentioned in the application are satisfactory to condone the delay. In the absence of any objection by the accused the delay of 22 days in filing the complaint deserves to be Condoned. Hence following:

ORDER

Acting under Sec.142(b) of NI Act the delay of 22 days in filing of complaint is condoned.

Office is hereby directed to put up for sworn statement by 09-08-2024.

III ACJ & J.M.F.C., Udupi.