

IN THE COURT OF THE JUDGE COURT OF SMALL
CAUSES AND A.C.J.M, AT BENGALURU

DATED THIS THE 23rd DAY OF JULY - 2026

PRESENT:

Smt.Nirmala.M.C., B.Com LL.B. ,
Judge & ACJM, Bengaluru.

PCR No.256/2023

Complainant: Mrs. M. Renukamma

-Vs-

Accused Mrs. Vedavathi.B

Orders on Application U/Sec.142(b) of N.I. ACT

The complainant has filed this application U/Sec.142(b) of N.I. Act with a prayer to condone the delay of 246 days in filing the complaint and permit her to contest the case on merits.

2. In the application she has contended that, she has received the cheque return memo dated 22.12.2021 from her banker, the legal notice was sent to the accused on 07.01.2022 and delivered on 10.01.2022. Further submitted that, after receipt of legal notice, accused approached the complainant that, her husband is suffering from cancer and she needs money for operation and promised her that she will pay the money in the month of June or July 2022. Hence, complainant has not filed complaint against the accused. Further

submitted that, as per the Writ Petition (c) No.2 and 3 of 2020 the Hon'ble Apex Court should be presented within 09.02.2022 but on request of the accused, the complainant could not file the complaint within time. Hence, prays to allow the application.

3. In spite of service of notice, the accused has filed objection on delay application wherein contended that, the said application is not maintainable either in law or facts and same may be liable to be dismissed as the complainant has not approached this court with clean hand. Further contended that, complainant is bound on duty to explain each and every days of delay in filing of case as delay is not properly explained. If the application is allowed, the respondent /accused will be put to irregular loss and injury and on the other hand, if the application is rejected no hardship will be caused to the other side. Hence, prays to dismiss the application.

4. In lieu of petition averments the complainant has filed affidavit and subjected the cross examination. No defense evidence on behalf of accused.

5. Heard the learned counsel for the complainant. Perused the materials produced.

The Learned counsel for complainant has relied upon the following citations reported in:

a) W.P.No.10396/2016 (GM-CPC)

The Learned counsel for accused has relied upon the following citations reported in:

- a) Crl. Appeal No.1867/2019
- b) AIR 2026 SC 501
- c) 2025 Live Law SC 889
- d) 1998 Crl.L.J 3539.

6. The points that would arise for my consideration are under:

- 1. Whether complainant has made out ground to condone the delay in filing the complaint as prayed ?
- 2. What Order?

7. My answer to the above said points are as under:

- Point No.1 : In the Negative
- Point No.2 : As per final order for the following:

REASONS

8. Point No.1: So far as condonation of delay is concerned after the amendment of NI Act Section 142(b) was inserted, the courts have been given enormous power to condonation any number of days delay provided the reason assigned for the condonation. Such delay convenience the court, on being satisfied with the reasons assigned the court can extended the time for filing the complaint by condoning the delay in filing of the complaint.

9. In this case, complainant has stated the reason for delay in her application. Admittedly, accused has filed objection to the said application. Complainant in her evidence affidavit stated that, due to her ill health and due to death of her daughter she could not file complaint within time. In support of her evidence, she has produced 5 documents which are marked at Ex.C.1 to Ex.C.5. Thereafter complainant subjected to cross examination.

10. The Learned counsel for the complainant argued that, due to ill health of complainant, she could not file complaint within stipulated period it is not intentional one. Hence, condone the delay. On the other hand, the Learned counsel for the accused argued that, complainant has filed the complaint after lapse of statutory period. Further, she has not explained proper reason for delay of filing of the complaint. Hence, dismiss the application.

11. Perused the material available on record. According to the complaint, accused has borrowed the loan of Rs.6 lakhs in the year 2016. Subsequently accused issued the cheque dated 28.10.2021 thereafter, complainant presented the same for encashed on 29.10.2021 and same day returned with endorsement "Funds insufficient". Hence, complainant has issued a legal notice dated 07.01.2022 and same has been served upon the accused on 10.01.2022. As per provision

Section 138 of N I Act, the complaint ought to have been filed within 45 days i.e., 24.02.2022. But complainant filed the complaint on 31.01.2023. It shows that, complainant filed this complaint after lapse of 341 days.

12. Perused the averments of the application and evidence of the complainant. Wherein she submitted that, she was suffering from ill health and due to death of her daughter she could not filed complaint within stipulated time. In support of her contention she filed 5 document Ex.C1 to Ex.C5. Perused the same, Ex.C.1 is the death certificate of her daughter, Ex.C.2 and Ex.C.3 are the copies of FIR, Ex.C4 is the complaint given by her daughter and Ex.C5 is the final report. These documents are not disclosing that complainant was suffering from ill health.

13. Further, perused the cross examination of the PW.1 wherein she deposed that -

“ ದಾಖಲೆಗಳ ಪ್ರಕಾರ ದಿನಾಂಕ 25.02.2022 ರಂದು ಅಥವಾ ಅದರೊಳಗಾಗಿ ಪ್ರಕರಣ ದಾಖಲಿಸಬೇಕಾಗಿತ್ತು ಎಂದರೆ ಸರಿ. ದಿನಾಂಕ 10.01.2022 ರಿಂದ 25.02.2022 ರವರೆಗೆ ತಾವು ಆರೋಗ್ಯವಾಗಿದ್ದೀರಿ ಎಂದರೆ ಸರಿ.

ದಿನಾಂಕ 10.01.2022 ರಿಂದ ದಿನಾಂಕ 25.02.2022 ರವರೆಗೆ ನೀವು ಆರೋಗ್ಯದಿಂದ ಇದ್ದೇನೆ ಎಂದು ಸಾಕ್ಷ್ಯ ನುಡಿದಿದ್ದು ಆ ಅವಧಿಯಲ್ಲಿ ಸದರಿ ಪ್ರಕರಣ ದಾಖಲಿಸಲ ನಿಮಗೆ ತೊಂದರೆ ಇರಲಿಲ್ಲ ಎಂದರೆ ಸರಿ.”

14. As above complainant was not suffering from ill heath on 10.01.2022 to 25.02.2022. According to the documents produced by the complainant she ought to

have file compliant on or before 24.02.2022. During that period she not suffering ill health. Hence, in the absence of oral and documentary evidence, contention of the complainant is not believable. Further, the complainant has taken another defense that due to death of daughter she could filed the complaint within stipulated period. In this regard she has produced the death certificate perused the same, her daughter died on 13.05.2022. It shows that, after lapse of statutory period i.e., 24.02.2022 her daughter died therefore, it is also not sufficient reason to condone the delay of filing of the complaint. Further, according to the averments of the complaint and documents there is delay of 341 days, but in the application complainant submitted that there is 246 days delay in filing of the complaint, in the evidence of affidavit submitted that there is 250 days delay. These are contradictory submission made by the complainant. In this regard also, complainant has not given proper explanation for condonation of delay. At this junction, the Learned counsel for respondent/accused relied upon the decision report in Crl.Appeal No.1867/2019 (Sri. Shah Rajesh Vs. Sri. Neeraj Kumar Agarwal) wherein it is held that:

“ 8. Submission of the Learned counsel for appellant – complainant that the testimony of PW.1 has remained unchallenged and therefore, the appellant – complainant has not

chosen to examine any other witnesses also cannot be taken into account. Even if the testimony put forth by the appellant – complainant is accepted as it is, the reasons assigned are not sufficient to condone the entire delay of 54 days in filing the complaint as the delay sought to be condoned is 16 days and as PW.1 has stated that he was suffering from viral fever for 30 days.

9. Considering all these aspects, the learned Magistrate has rightly rejected the application filed by the appellant – complainant seeking condonation of delay in filing the complaint. Theses are no grounds to admit that appeal. Hence, the appeal is dismissed”.

The above decision amply applicable to the present facts and circumstances of the case. In the above decision, Hon’ble High Court of Karnataka held that there is no reason assigned in the application hence, dismissed the appeal. In the present case also, complainant contended that, she was suffering from ill health and due to death of her daughter she could not filed complaint within stipulated period. In support of her contention she relied upon Ex.C.1 to Ex.C.5 but these documents are not supported to her contention hence,

in the absence of relevant documentary evidence mere testimony of the complainant is not sufficient allow this application. Therefore, complainant has not made out sufficient grounds to allow the application. So, under such circumstances, I answered point No.1 in the Negative.

15. Point No.2:

For the foregoing reasons stated therein, in view of my findings on Point No.1, I proceed to pass the following;

ORDER

The application filed by the complainant U/Sec.142(b) of N.I. Act is hereby dismissed.

Consequently complaint u/s.138 of N I Act is hereby dismissed.

(Dictated to the Stenographer directly on computer, typed by her and corrected then pronounced by me in the open court on this the **23rd** day of July, 2026.)

(Smt. Nirmala.M.C)
Court of Small Causes,
Judge & ACJM, Bengaluru.