

**ORDER APPLICATION FILED BY THE
COMPLAINT U/S 142 OF NI Act**

The complainant has filed present application for condone 47 days delay in presenting this complaint.

2. The complainant in the application stated that, he has preferred this complaint against the accused for the offence punishable U/s.138 of NI act. The complaint ought to have presented the complaint before 47 days. The complainant presented the above complaint on 31.08.2021. There is a delay of 47 days.

3. The complainant submitted that, due to covid 19 pandemic decrease the instant complaint could not be filed in time. Therefore the complainant could not file complaint in time and sought for condoning the delay of 47 days.

4. The application sans objections.

5. Heard counsel for the complainant.

6. The following point that arise for my consideration,

Whether the application filed by the complaint is deserves to be allowed?

7. My answer to the above point is in the affirmative for the following:

REASONS

8. On perusal of the records it appears that, the complainant initially preferred complaint against the accused alleging the commission of offence punishable U/s. 138 of NI act.. The complainant could not present the complaint before this court in time and seeks permission

for the same.

9. The complainant in the application stated that, due to covid 19 pandemic decrease the instant complaint could not be filed in time. Therefore the complainant could not file complaint in time and sought for condoning the delay of 47 days. Considering the facts and circumstances of the case, this court is opinion that the delay in presenting the complaint deserves to be condone.

11. The provision of S-142(b) of NI act reads as follow.,

Provided that the cognizance of complaint may be taken by the court after the prescribed period, if the complainant satisfies the court that he had sufficient cause for not making a complaint within such period. Hence, it is clear from the above definition that cognizance of a complaint taken by the court even after the prescribed period if the complainant satisfied the court that there is sufficient cause for not making a complaint within prescribed period.

12. As per decision reported in ILR 2008 KST 440 between Mr.P.S.Aithala V/s Mr.Ganapathy N.Hedge, it is held that “when there is hardly 13 days delay and by a supporting affidavit the complainant had filed application. Under section 5 of limitation act read with section 142(b) of the NI act to condone the delay. The said delay could be condoned in the interest of justice, having regard to the nature of transaction and the amount involved and also having regard to the sufficient cause show for delay in filing the complaint. Hence, delay is condoned.”

13. In the present case on hand, the complainant has

satisfied the court and sufficient caused is shown for delay in filing complaint and huge amount is involved in the case. Hence, having regard to the nature of transaction and the amount involved and the interest of Justice, I answer above point in the affirmative. Hence, I proceed to pass the following:

ORDER

The application filed by the complainant U/s 142 of NI act is hereby allowed and 47 days delay is condoned in filing the complaint. Cognizance is taken for the offence U/s 138 NI act.

Call on for sworn statement by
24.01.2023.

**Addl. Civil Judge & JMFC.,
K.R. Pet.**

