



Gangamai Agro Trust
Vs
Keshav Sakharam Wagh

Order below Exhibit 01 in Criminal M.A. No. 241/2016

This is an application filed by the applicant for the condonation of delay caused in filing the complaint under Section 138 of the Negotiable Instruments Act.

2. This The notice of this application is dispensed with in view of ruling of Hon'ble Jammu and Kashmir High Court reported in Sushant Bakshi Vs. Manju Ghosh, 2011 ALL M.R.(Cri.) Journal 129, wherein a direct question whether the accused is required to be heard in time barred complaint under Section 138 of the N.I. Act was involved. The Hon'ble High Court in para 17 to 24 has held that “condonation of delay essentially a matter between the complaint and court. The accused is not required to be heard therein.”

3. In matter of condonation of delay, the courts are required to adopt liberal approach as per the guidelines mentioned in Collector, Land Acquisition, Anantnag & anrs. Vs. Mst. Katiji and ors. Reported in MANU/SC/0460/1987:AIR 1987, SC 1353. In para no. 05 of the said judgment, the Hon'ble Supreme Court had laid down the following principles:-

1. *Ordinarily, the litigant does not stand to benefit by lodging an appeal late.*
2. *Refusing to condon delay can result in meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this, when delay is*

condoned the highest that can happened is that the cause would be decided on merits after hearing the parties.

3. *“Everydays delay must be explained” does not mean that pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in rational common sence pragmatic manner.*
4. *When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side can not claim to have vested right in injustice being done because of non-deliberate delay.*
5. *There is no presumption that the delay is occassioned deliberately, or on account of culpable, negligence or on account of malafides. A litigant does not stand to benefit by resorting to delay. In fact he runs serious risk.*

4. As per the applicant, there is delay of 7 days due to jurisdiction issue. Therefore, he could not file present complaint within time, therefore complaint is not filed within time. Therefore, prayed for condonation of said delay.

5. I have perused the application and documents. This application is supported with affidavit. There is delay of 7 days. The complainant mentioned the above said reason, the complaint is not filed within time. The complainant has stated this reason on the affidavit. Therefore, explanation is seen satisfactory. Therefore, considering the reason and duration of delay, it is necessary to condone the delay by imposing cost of Rs.1,000/-. Thus, following order is passed.

ORDER

1. The delay of 7 days is condoned subject to costs of Rs.1,000- to the State Government , Aurangabad.
2. The complaint be registered after payment of cost.
3. The applicant to pay cost within 10 days from today.

Date - 12.03.2026
Place - Aurangabad

(Snehal S. Jadhav)
Judicial Magistrate First Class,
(Court No.13), Aurangabad