

ORDER BELOW EXH. 6 IN SCC NO. 233/2021.

(Passed on 01.08.2022)

01. This is an application filed by the complainant/applicant to condone the delay of 8 days for filing his complaint under Section 138 of the Negotiable Instruments Act, 1881.

02. The applicant/complainant contended that, he would have file his complaint under Section 138 of the Negotiable Instruments Act, 1881 on or before 23.11.2021. But, at the relevant time, there was spreading of Covid-19 pandemic disease. Due to such disease, there was complete lock down declared by the Government. Therefore, he could not file his complaint within prescribed period of limitation. Complainant further submitted that, he has good case. Therefore, delay of 8 days be condoned and his complaint be registered as per rules.

03. This court had issued notice to the non-applicant/accused Sanjay Tukaram Wagh. But, it has not been served upon accused.

04. The complainant/applicant has filed a complaint under Section 138 of Negotiable Instruments Act, 1881. In his complaint, there seems to be prima-facie material to proceed further. The complainant/applicant submitted that, he would have filed his complaint under Section 138 of the Negotiable Instruments Act, 1881 on or before 23.11.2021. But, there was spreading of Covid-19 pandemic disease. Due to such disease, there was complete lock down declared by the Government. Therefore, he could not file his complaint within prescribed period of limitation. The complainant relied on the case law of suo-moto writ petition (C) No.3 of 2020 of the

Hon'ble Apex Court. Wherein the Hon'ble Apex Court has clarified that, the period of 15.03.2020 till 28.02.2022 shall stand excluded in computing the periods prescribed under Section 138 of Negotiable Instruments Act, 1881. As such, the guidelines of aforesaid law laid down by the Apex Court is fully applicable to this application. So also, due to spreading of Covid-19, the complainant could not file his complaint within prescribed period of limitation. Such thing was beyond control of the complainant. Such explanation is proper and justifiable. Therefore, delay of 8 days to file the complaint can be condoned. Hence, I pass following order.

ORDER

- 01) Delay application at Exh. 6 is allowed.
- 02) The delay of 8 days is condoned and complainant/applicant is allowed to file his complaint under Section 138 of Negotiable Instruments Act, 1881.
- 03) The present case has been already registered as a Summary Criminal Case Number. Therefore, no need to re-registration.

Place - Lonar
Date :- 01.08.2022.

(V. S. Raut)
Judicial Magistrate F. C., Lonar.
J.O. Code : MHBI 02-2830