

S.C.C. No. 786/2020
Rahul Digambar Pagar
Versus
Sagar Raghunath Pachore

This application is filed by complainant/applicant for
condonation of delay in filing complaint.

2. It is contended that, delay of 31 days has been caused on the part complainant/applicant in sending notice to the accused according to section 138 of Negotiable Instrument Act, 1881. It is submitted that, the disputed cheque was dishonoured on 21/03/2020. It was necessary to sent notice to the accused within 1 month from the above mentioned date. However due to lockdown in pandemic of Covid 19, complainant/applicant could not collect necessary documents from the bank. Further on, 19/02/2020 complainant/applicant met with an accident, therefore he could not go out the house. The said notice was sent on 08/06/2020. Therefore, delay of 31 days is caused to send notice to the accused. Further ruling of Honourable Supreme Court in ***Suo Moto Writ Petition(C) No. 3 of 2020 in Misc. Application No. 29 of 2022*** has been cited in the application. Hence prayed to condone the delay accused.

3. Heard Learned Advocate for the complainant/ applicant. Perused the application. As per Section 138 of Negotiable Instrument Act, 1881, notice in respect of cheque dishonoured has to be sent to the accused within 1 month from the date of cheque being dishonour. The reason mentioned in the application appears to be *bonafide*. Due to pandemic of Covid 19, lockdown was declared in the country. Learned Advocate has cited ruling of Honourable Supreme Court in ***Suo Moto Writ Petition(C) No. 3 of 2020 in Misc. Application No. 29 of 2022***. In the before mentioned ruling Honourable Apex Court has held that period

from 15/03/2020 till 28/02/2022 shall stand excluded in computing the periods prescribed under Sections 138 (b) and (c) 138 of Negotiable Instrument Act, 1881. Also, the reasons mentioned in the application are sufficient to condone the delay caused by the complainant. Hence, in the view of ruling cited above and the reason mentioned, this application deserves to be allowed. Hence, I pass the following order:

ORDER

1. The present application is allowed.
2. Complainant/ Applicant to take further necessary steps.

Date: 10/10/2022
Place: Sinnar

Sd/-xxx
(K.S. Khandre)
2nd Jt. J.M.F.C., Sinnar.