



Order below Exh.30
(Passed on 06th August, 2024)

1. Perused the application, say (Exh.35) and record of the case.
2. Heard both sides.
3. Learned advocate for the accused has argued that present complaint is not tenable as it is not filed within limitation period. Complainant should have filed present complaint on or before 24/2/2021. However, it is filed on 24/01/2022 i.e. after about one year. Therefore, as the complaint is time-barred and it is not tenable, it is necessary to discharge the accused. Per-contra, learned advocate for the complainant has argued that due to Corona Lock-down period, the complainant could not file his complaint within a period of limitation prescribed by law. He further argued that, the application filed by the accused is not tenable and it deserves rejection.
4. Learned advocate for the accused in support of his application has relied on authority **Pawan Kumar Goel Vs. State of U.P. & Anr.** (Criminal Appeal No.1999 of 2022), wherein Hon'ble Apex court upheld the order of Hon'ble High Court when the summoning order of the Magistrate was quashed. **Pawan Kumar Ralli Vs. Maninder Singh Narula,** (Criminal Appeal No. 1684 of 2014), wherein Hon'ble Apex court observed that- At the same time, we want to make it very clear that by this observation we are not laying down a legal proposition that without even filing an application seeking condonation of delay at an initial stage, complainant can be given opportunity at any stage of the

proceeding.

5. Now coming towards the case in hand, it is necessary to mention that, this is a summary criminal case wherein order of issue process is already passed against accused for the offence punishable under Section 138 of the Negotiable Instruments Act and particulars of the offence punishable under Section 138 of the Negotiable Instruments Act are already framed against accused. Cognizance of the offence is already taken by this court. Now, if the prayer of accused is considered then it will amount to recall the order of issue process which is not permissible in the eyes of law. Hon'ble Supreme Court in **Suo-motu Writ Petition No.3/2020** has held that "It is further clarified that period from 15/03/2020 till 28/2/2022 shall also stand excluded in computing the periods prescribed under Sections 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribed period(s) of limitation for instituting proceeding, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

6. Facts and circumstances of present case are different from authorities which are relied on by the learned advocate for accused. Therefore, expressing all my respects to said authorities, I would say that those are not helpful for the accused. Therefore, considering above facts, circumstances and discussion, I hereby pass the following order.

Order

The application is rejected.

(Dictated and pronounced in open court)

Date:-06/08/2024

(N.P. Talnikar)
Judicial Magistrate F.C., Jintur



Certificate

I affirm that the contents of this P.D.F. file are same word for word as per original order.

Name of Steno :- Mubbassir Ahmed M. Shoeb Ahmed.

Court Name :- Judicial Magistrate F.C; Jintur.

Dictated on :- 06/08/2024.

Transcribed on :- 06/08/2024.

Checked on :- 07/08/2024.

Signed by Presiding

Officer on :- 07/08/2024.

Uploaded on :- 07/08/2024.
