

Criminal Misc. Application No.138/2025
Ravindra Temgire Vs. Amol Dhobale & Anr.

CNR No : MHPU200017352025

ORDER BELOW EXH-1

The present application is filed for con-donation of delay which has been occurred to file the private complaint under the section 138 of The Negotiable Instruments Act, 1881.

02. The complainant contended that, the present accused has issued a cheques in favour of the complainant of Rs.44,33,500/-, bearing no. 130254 which was dishonored due to "Drawers Signature not as per mandate" and "Drawers Signature Differs", the second cheque bearing No.130255 of Rs.20,00,000 was dishonored due to "Insufficient Fund, the third cheque bearing No. 130256 of Rs. 44,33,500 was dishonored Due to "Insufficient Fund". Accordingly, the applicant has issued a legal demand notice to the non-applicant dated 20/01/2025. The said notice was received by the non applicant. However, the non applicant failed to pay the disputed amount to the applicant. The right to file the complaint accrues in favour of the applicant. It was incumbent on the part of the applicant to file the private the complainant within the statutory period of 10/02/2025 to 10/03/2025. However, during the said period of limitation the complainant was suffering from spinal back pain due to which he was under medical observation and even after the receipt of the said legal demand notice the accused person to repay the disputed amount and hence billing on the said promises in good faith the complainant did not take any action within the stipulated period. The delay on the part of the complainant is not deliberate. However, it had been occurred in good faith relying on the promises of accused person. Hence, the applicant prays to condone the said delay and permission to file the private complaint against the non applicant.

03. Heard the Ld. Counsel for the applicant. The Ld. Advocate submitted that, the applicant has shown the sufficient cause and had explained the delay properly. In this regard I have gone through the relevant provisions of law. Section 142 of the Negotiable Instrument Act, 1881, deals with Cognizance of offence under the N. I. Act, 1881. The proviso clause of section 142 (b) of the N.I. Act, 1881 provides that, ***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 the prescribed period.***

04. In the present case, the cheques were dishonored on 16/12/2024, 20/12/2024, 04/01/2025 and the notice was issued on 20/01/2025. Even after the service notice the non applicant failed to comply with the said notice. Therefore the complainant must have filed complaint within the statutory period of 15/02/2025 to 15/03/2025. However, the complainant had filed the present complaint on 04/07/2025 after the lapse of statutory period. Therefore, it is necessary to see whether the complainant satisfied the court that there was sufficient cause for not making the complaint within the prescribed time.

05. The complainant submitted that, as he was suffering from the spinal back pain to which he certificate issued by Care Multispeciality Hospital sufficiently shows due to said reason the complainant was unable to file the present complaint within the stipulated period. The application is supported by the affidavit of the applicant. Therefore, I inclined to say that, sufficient cause has been shown by the applicant for not making the complaint within the prescribed time. If by taking technical approach, the complaint is dismissed substantial loss would be sustained by the applicant, and opportunity of being heard should be granted to the complaint to

prosecute his remedy. Section 142 (c) the proviso clause empowers the court to take cognizance if the complainant has satisfies the court that there was sufficient cause has been shown by the complainant. Resultantly, I proceed to pass following order,

ORDER

01.	Application is allowed.
02.	The Private complaint under the section 138 of the Negotiable Instruments Act, 1881 be registered as per rules.
03.	The Criminal Misc. application No.138/2025 is disposed off accordingly.

Date: 03/01/2026.

(C. M. Kharkar)
Judicial Magistrate F.C, (Court No. 4)
Ghodnadi Shirur (MHPU20-3003)