

Criminal Misc. Application No.411/2024
Santosh Bhiva Chormale Vs. Dattatraya Shivaji Pawar.

CNR No : MHPU200030442024

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 applicant contended that, the present opponent has issued cheques in favour of the applicant of Rs.50,000/-, bearing no. 000012. The said cheque was dishonored due to "Funds Insufficient". Accordingly, the applicant has issued a legal demand notice to the non-applicant dated 24/09/2024. 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 complaint within the statutory period. However, in the mean time applicant was not well and he was hospitalized and he could not come before the Court. Hence, the applicant prays to condone the said delay and permission to file the private complaint against the non applicant.

03. Heard the Ld. Advocate 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 applicant satisfies the court that he had sufficient cause for not making a complaint within the prescribed period.***

04. In the present case, the cheque was dishonored and the notice was issued on 24/09/2024 and the said notice was received by the accused person on 08/10/2024. After the receipt of the present notice the accused needs to comply with the said notice till the completion of fifteen day's i.e. on 23/10/2024. Even after the service notice the non applicant failed to comply with the said notice. Therefore the applicant must have filed complaint within the statutory period of thirty days ending on the day of 23/11/2024. However, the applicant had filed the present complaint after the lapse of statutory period i.e. on 27/11/2024. Therefore it is necessary to see whether the applicant satisfied the court that there was sufficient cause for not making the complaint within the prescribed time.

05. The applicant submitted that, due to his illness he could not proceed further with the proceeding against accused. The contentions of the applicant are hereby supported by an medical certificate. 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 applicant has satisfies the court that there was sufficient cause has been shown by the applicant. 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.	Assistant Superintendent is hereby directed to convert the Criminal Misc. application No.411/2024 in to summary case.

Date: 25/08/2026.

(C. M. Kharkar)
Judicial Magistrate F.C, (Court No.3)
Ghodnadi Shirur (MHPU39-3003)