

Criminal Misc. Application No. 322/2025
Bharat Ghode Vs. Bajirao Salake
CNR No : MHPU200039372025

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 a cheque in favour of the applicant of Rs.3,00,000/-, bearing no.038388 dated 04/05/2025. The said cheque was dishonored due to "Funds Insufficient". Accordingly, the applicant has issued a legal demand notice to the opponent dated 26/07/2025. The said notice was received by the opponent on 28/07/2025. However, the opponent failed to pay the disputed amount to the applicant. The time to file the complaint accrues in favour of the applicant. It was incumbent on the part of the applicant to file the private the applicant within the statutory period of 12/08/2025 to 12/09/2025. However in the mean time when applicant demanded payment from opponent. The opponent on the pretext or another, repeatedly assured the applicant that the said amount would be paid 'today' or 'tomorrow', thereby intentionally keeping the applicant waiting until the statutory period prescribe for filing the said case. Hence, the applicant prays to condone the said delay and permission to file the private complaint against the opponent.

04. In the present case, the cheque was dishonored on 22/07/2025 and the notice was issued on 26/07/2025. Even after

the service of notice the opponent failed to comply with the said notice. Therefore the applicant must have filed complaint within the statutory period of 12/08/2025 to 12/09/2025. However, the applicant had filed the present complaint on 01/11/2025 after the lapse of statutory period. 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, the opponent on the pretext or another, repeatedly assured the applicant that the said amount would be paid 'today' or 'tomorrow', thereby intentionally keeping the applicant waiting until the statutory period prescribed for filing the said case therefore, he was unable to institute the complaint earlier. 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 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.	The Criminal Misc. application No. 322/2025 is reconverted in Summary Criminal Case for the offence Punishable U/sec. 138 of the Negotiable Instruments Act.
04.	After re-registration of the case allocate the same for verification of the complainant.

Date: 10/03/2026.

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