



CRIMINAL MISCELLANEOUS APPLICATION NO.96/2024

(Sandip Suresh Talekar Vs. Prashant Tukaram Naikade)

ORDER BELOW EXH.1

(Passed on 12th February 2025)

CNR No.MHPU23-000940-2024

01. This is an application for condonation of delay for filing complaint under section 138 of the Negotiable Instruments Act, by virtue of section 142(b) of the Negotiable Instruments Act. Read application. Heard the learned Counsel for applicant.

02. It is the contention of applicant/complainant that accused has drawn cheque no.005811 of State Bank of India Branch Kasarwadi, Pune on 05/09/2023 for Rs.5,50,000/- in order to repay the hand loan amount. The applicant presented the cheque in his account of Union Bank of India branch Alandi on 31/10/2023. The same is dishonoured and returned with remark "Funds Insufficient". However, he issued demand notice to accused on 06/11/2023. Accused received the notice but failed to pay the cheque amount. Hence, on 20/12/2023 mistakenly they filed online complaint before Judicial Magistrate First Class Pimpri. On 27/12/2023 he requested Assistant Superintendent to check the said matter. After verifying the documents on 30/12/2023 Assistant Superintendent raised objection of jurisdiction. Thereafter he filed criminal complaint before this Court on 07/03/2024. Due to above circumstances, he could not have filed

the complaint within time and 02 months 07 days delay is caused to file the present complaint. If such delay is not condoned, applicant/complainant will suffer from monetary loss. Thus, he prayed for condonation of delay.

03. Non-applicant appeared upon service of notice and opposed the application by filing say at Exh.08. He denied the contentions of application and submitted that applicant failed to give sufficient cause for delay caused in filing present complaint. He repaid hand loan amount and he is not liable to pay any money to applicant. This complaint is filed only to harass him. They have not explained the delay properly. In fact, 03 months 18 days delay caused to file present complaint. The applicant has not explained day to day delay with sufficient cause. Hence, they prayed for rejection of application.

04. Upon rival contentions of parties following points arise for my determination along with my findings with reasons discussed hereinafter.

Sr.No.	POINTS	FINDINGS
1.	Whether there was sufficient cause to applicant/ complainant for not making complaint under section 138 of the Negotiable Instruments Act, within prescribed period ?	Yes.
2.	What order	Application is allowed subject to costs of Rs.1000/-.

05. Heard both sides. Perused record. In support of application, applicant/complainant produced his affidavit on record. On perusal of record, it appears that, the applicant initially filed complaint before Judicial Magistrate First Class, Pimpri, Dist. Pune. The said complaint was not registered as Pimpri Court has no jurisdiction to try and decide the complaint. On 30/12/2023 objection in respect of jurisdiction has been raised by Pimpri Court. Thereafter on 07/03/2024 the applicant filed complaint before this Court. It appears that mistakenly the applicant filed complaint in the court of wrong jurisdiction. Delay caused to file present complaint is not intentional or deliberate. The applicant was not ignorant. He has not waived his right to lodge the complaint within time. He filed complaint within time before the Court of wrong jurisdiction.

06. Non-applicant submitted that, the applicant has not explained the delay from 30/12/2023 till 07/03/2024. It seems that due to technical reasons delay is caused to file this complaint. There is no fault on the part of complainant. If delay is not condoned applicant will suffer monetary loss. The applicant succeeded in showing sufficient cause for not moving the complaint within prescribed period. Still, it is necessary to impose costs upon applicant to compensate non-applicant. Hence, I pass following order:-

ORDER

1. Application is allowed subject to costs of Rs.1000/- (Rs. One Thousand only)

2. The delay caused for filing complaint is hereby condoned by virtue of section 142(b) of the Negotiable Instruments Act.
3. The cognizance of complaint is hereby taken and case be registered as summary criminal case in concerned register.

Rajgurunagar Khed

(S.B.Naiknavare-Garad)

Date : 12.02.2025

Judicial Magistrate First Class,
Rajgurunagar-Khed, Dist. Pune