

ORDER BELOW EXH.1 IN CRIMINAL M.A. No.354/2024

This application is filed by the applicant for condonation of delay caused in filing complaint against the opponent under section 138 of the Negotiable Instruments Act, 1881 (Hereinafter referred as the “ N.I. Act”).

02. It is the contention of applicant/complainant that, she deposited cheque no.000055 on 05/08/2024 in bank for encashment but it returned dishonored with memo dtd. 06/08/2024. She issued legal notice on 02/09/2024 to non applicant. The complainant ought to have been filed on 05/12/2024 but the complainant was suffering from Chiken guniya and advised compete bed rest. Therefore, 48 days delay is caused in filing present complaint. Delay is not intentional and deliberate. If such delay is not condoned, applicant/complainant will suffer monitory loss. Thus, she prayed for condonation of delay.

03. Despite service of notice non-applicant failed to appear hence, application is proceeded ex-parte against him.

04. Following points arise for my determination along Following points arise for my determination I have recorded my findings against each of them with reasons as follows.

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.

REASONS.

AS TO POINT NO.1:-

Heard ld. Counsel for applicant. Perused record. In support of application, applicant/complainant produced her affidavit on record. According to applicant she was suffering from chicken guniya and advised complete bed rest, therefore, she could not have filed complaint within prescribed time. She filed on record her medical papers which supported her contentions. It appears that, delay caused to file present complaint is not intentional or deliberate. The applicant was not ignorant. She has not waived her right to lodge the complaint within time.

06. The applicant succeeded in showing sufficient cause for not moving the complaint within prescribed period. If delay is not condoned applicant will suffer monetary loss. Hence, I pass following order:-

ORDER

1. Application is allowed.
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
Date : 30.01.2026

(S.B.Naiknavare-Garad)
Judicial Magistrate First Class,
Rajgurunagar-Khed, Dist. Pune