

MHRT010008332024



Received on : 21.09.2024

Registered on : 24.09.2024

Decided on : 24.03.2026

Duration : Ys. Ms. Ds.  
01 06 00

**IN THE COURT OF SESSIONS JUDGE, RATNAGIRI.**

**AT : RATNAGIRI**

( Presided over by : V. Y. Jadhav )

**Cri.M.A. No.30 of 2024.**  
**Exh.No. 20.**

Pradeep Sahadev Kotre  
Age - 42 years, Occ.: Labourer,  
R/o.Kapadgaon, Bhatlekar Wadi,  
Tal. Dist. Ratnagiri.

**...Applicant.**  
(Ori. accused)

**Versus**

Sant Santaji Maharaj Jagnade Co-op.  
Patsanstha, through Operator,  
Vinod Vishwanath Salunkhe,  
Age - 39 years, Occu.: Service,  
R/o. Teliali, Tal. Dist. Ratnagiri.

**...Opponent.**  
(Ori. Complainant)

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**::Appearance ::**

Shri.K.K.Sawantdesai, Learned adv. for the applicant.  
Shri.A. A. Solkar, Learned adv. for the opponent.  
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**:: J U D G M E N T ::**

( Delivered on 24.03.2026 )

1. By way of present application under Section-5 of the Limitation Act, the applicant has prayed for condonation of 307 days delay in preferring Criminal

Appeal against the judgment and order in Summary Criminal Case No.673/2022 dated 20.10.2023 passed by learned 3<sup>rd</sup> Judicial Magistrate First Class, Ratnagiri, Dist. Ratnagiri whereby learned trial court convicted the accused under Section 138 of the Negotiable Instruments Act and sentenced to undergo simple imprisonment of three months and pay fine of Rs. 3,50,000/- and in default to suffer simple imprisonment for one month.

2. Heard learned advocate Shri. K. K. Sawantdesai for the applicant and learned advocate Shri. A. A. Solkar for the opponent.

3. Learned advocate for the applicant submitted that the impugned judgment and order was passed on 20.10.2023. The appeal was required to file within 30 days after the impugned judgment and order i.e. on or before 18.11.2023. The applicant/accused is illiterate and do not know whether the appeal could be filed or not. So also during that period the applicant was also suffering from illness.

4. Moreover, the accused do not know about lodging appeal, in response to the conviction warrant the accused was kept in jail. In these circumstances, the delay of 307 days has caused in filing criminal appeal. The delay is not intentional or deliberate but

incidental one. If the same would not be condoned valuable right of applicant would be taken away. They further prayed for condonation of said delay of 307 days so that said criminal appeal can be heard on merits.

5. Learned advocate for opponent has filed say vide Exh. 15 on the application and opposed the said application. It is submitted by the opponent that the contents of application are false and not correct. The contention of illness of the applicant is false as the applicant has not filed any document in that regard. The applicant has not made out sufficient cause for condoning the delay. The delay has caused due to negligence of the applicant. Hence, the application may be rejected. If the Court comes to the conclusion of allowing the application, then heavy costs may be imposed on the applicant.

6. After going through the record following points are framed for my consideration. I have given my findings thereto for the reasons given as under.

<u>Points</u>	<u>Findings</u>
1. Whether the delay of 307 days caused in filing Criminal Appeal is liable to be condoned.	..Yes.
2. What order ?	As per final order.

## **REASONS**

### **As to Point No.1**

7. It is the specific case of applicant that the impugned judgment and order dated 20.10.2023 was passed. But the applicant is illiterate person and not knowing about the possibility of filing appeal against the said judgment and order. So also he was suffering illness during that period. Hence, he has not filed the appeal in time. Therefore, the delay may be condoned by permitting the applicant to file the criminal appeal.

8. The Ld. advocate for the opponent has objection to condone the delay. It is submitted by the opponent that if the Ld. Court came to the conclusion for allowing the application, heavy cost may be imposed on the applicant.

9. The applicant has made two fold submissions. Firstly, that he was unaware about the provision to file the appeal. Secondly, he was in jail in accordance with the impugned conviction order. If the roznama of the present miscellaneous application would perused, it appears that he came to be enlarged on bail by my Ld. Predecessor vide order dated 25.09.2024 below Exh. 5 and 6.

10. Therefore, it appears that the applicant was in custody and therefore, not able to contact his advocate. Secondly, it appears that there was nobody to look after the litigation. Therefore, he has made out sufficient cause for occurrence of such delay. No doubt, he has not produced any documentary proof about his own illness. However, when he was in custody from the date of impugned order till his enlargement in present proceeding itself it would be a more sufficient cause for condoning the delay.

11. Moreover, it is also necessary to consider here that the proposed appeal being first appeal it would be the last fact finding forum for the parties. Certainly, a fair opportunity is required to be given to both of them to agitate their case on merits, rather than deciding the dispute on technical ground of delay. No doubt, the party has to make out sufficient reason for such delay. However, as discussed above the applicant has succeeded in making out sufficient cause. The applicant submitted that he is willing to settle the matter. That is why he has been deposited Rs. 1,70,000/- till today in the present application itself. This shows the bonafide intention of the applicant.

12. At the same time, it is necessary to consider that some inconvenience is going to be caused to the

other side by condoning the delay. However, the same can be compensated in terms of money. At the same time if the delay would not be condoned the applicant would be deprived of his remedy of appeal finally and his loss could not compensate in terms of money. Considering the meager period of delay in my view the inconvenience caused to the respondent by allowing the applicant can be compensated by awarding costs of Rs. 3000/-. Hence, point No.1 is answered in the affirmative.

13. It appears that, it would not be proper to delay the matter further by issuing notice to the parties after registration of appeal after scrutiny. Hence, it is necessary that the parties should be directed to appear in the appeal on 20.04.2026 and no notice for the same would be required. Needless to mention the office has to scrutinize the appeal on payment of costs and place the same on board on 20.04.2026. Hence, in answer to point No.2, I pass following order;

### **ORDER**

1. The application is hereby allowed in following terms.
2. Delay of 307 days caused in filing Criminal Appeal challenging the judgment and order dated 20.10.2023 in Summary Criminal Case No. 673/2022 is hereby condoned subject to

costs of Rs.3000/- (Rupees Three Thousand only) within three weeks from the date of this order.

3. On payment of costs, the office is directed to register the Criminal Appeal subject to scrutiny and place the same on the board of 20.04.2026.
4. The parties are directed to appear in Criminal Appeal on 20.04.2026 and no further notice would be required.

Dictated and pronounced in open Court.

Date : 24.03.2026

( V. Y. Jadhav )  
Sessions Judge, Ratnagiri.

I affirm that the contents of this P.D.F. file order are same, word to word, as per the original order.

Case Number		Criminal Misc Application 30/2024
Name of Stenographer	:-	Sou. P.S.Lad
Name of Court	:-	Sessions Judge, Ratnagiri.
Date of Decision	:-	24.03.2026
Order signed by the P.O. on	:-	24.03.2026
Order uploaded on	:-	25.03.2026