

IN THE COURT OF THE JUDICIAL MAGISTRATE, KUMARAPALAYAM

**Present : Tmt.A.K.Padmapriya, B.Sc, M.L.,
Judicial Magistrate,
Kumarapalayam.**

Friday, the 12th day of June – 2026

CMP.No.392/2025

Mr.M.Ponganavel (41),
S/o.Marimuthu,
D.No.243, Periyakadu,
Pudhupalayam,
Alampalayam,
Kumarapalayam,
Namakkal.

... Petitioner / Complainant

//vs//

Mr.R.Kathirvel (60),
S/o.Raman,
D.No.97/4, Aruthathiyar Street,
P.Goundampalayam,
Patlur Post,
Tiruchengode,
Namakkal.

.... Respondent/ Accused

This petition was came before me for final hearing on 08.06.2026 in the presence of **Thiru.M.Ramesh**, the learned Counsel for the Petitioner and **Thiru.S.Venkatesan**, the learned Counsel for the respondent and on hearing both sides and on perusal of the case records, this Court delivers the following

ORDER

1. The petitioner had filed this application condoning the delay of 81 days in filing the complaint for offence alleged to have committed by the respondent punishable under section 138 of the Negotiable Instruments Act.

2. GIST OF THE PETITION:

2.1. The Petitioner herein and the complainant in the above complaint. The main complaint may be treated as part and parcel of this affidavit. The Respondent is well known to me for past several years on that relationship the Respondent has requested

me to lend the loan amount of Rs.3,00,000/- as a hand loan on 02.02.2025. After receiving the loan amount in cash in order to discharge the liability the Respondent has issued her cheque belongs State Bank of India, Tiruchengode Branch vide cheque 633272 dated on 02.07.2025 infavour of me on 02.02.2025. As per the instruction of Respondent I have presented the above cheque before my banker namely Union Bank of India, Pallipalayam branch on 02.07.2025 which was returned as “Kindly Contact Drawer Drawee Bank and please present again” on 03.07.2025. After receiving the instruction from bank I have issued the legal notice to Respondent on 24.07.2025 in which I have demanded the Respondent to repay the loan amount within 15 days from the date of receipt of legal notice. The legal notice has been received by the Respondent and so for Respondent fails to give reply to the legal notice and not come forward to repay the loan amount. The Respondent issued the said cheque knowing well that her account “Kindly Contact Drawer Drawee Bank and please present again” in bank the act of Respondent is fraudulently to cheat petitioner which is punishable under section 138 & 142 of Negotiable Instrument Act. The Petitioner must have filed the complaint under section 138 & 142 of Negotiable Instrument act against the Respondent on or before 06.09.2025 before this Hon’ble court. But due to hectic typoid fever, the Petitioner could not able to file the complaint on that date hence I was come forward to file the complaint today with a delay of 81 days. The Petitioner got a prima facie case against the Respondent. In the interest of justice and for proper adjudication of this case this Hon’ble court may kindly be pleased to condone the delay of 81 days unless otherwise the Petitioner will be put into irreparable loss and hardship. Hence, prayed to condone the delay of 81 days in filing the complaint.

3.GIST OF THE COUNTER:

The petition is false, frivolous and vexatious and it is not maintainable either in law or in facts of the case. The petitioner is put to strict proof of all allegations contained in the petition except those that are specifically admitted herein. The averment contained in the petition are totally denied by the Respondent herein. The burden heavily shifts upon the petitioner to prove the averment in the petition. It

is totally false to state the Respondent well known to the petitioner for past several years. It is totally false to state that the Respondent has requested the petitioner and lend the amount Rs.3,00,000/- as hand loan on 02.02.2025 and after receiving the loan amount in cash in order to discharge the liability the Respondent has issued the cheque belongs to State Bank of India, Tiruchengode Branch vide cheque No.633272 dated 02.07.2025 in favour of petitioner on 02.02.2025. It is false to state that Petitioner Presented the above cheque before his banker namely Union Bank of India, Pallipalayam Branch on 02.07.2025 which was returned as Kindly contact Drawer, Drawer Bank and he has presented again on 03.07.2025. After receiving the instruction from bank he has issued the legal notice to Respondent on 24.07.2025 in which the 15 days from the date of receipt of legal notice. The Respondent further state that in the petition the petitioner must filed the complaint under section 138 & 142 of Negotiable Instrument act against the Respondent on or before 06.09.2025 before the Honourable court. But due to hectic typhoid fever he could not able to file the complaint on that date hence he has come forward to file the complaint with delay of 81 days and he got a prime face case against the Respondent. The petitioner has not presented the any medical certificate for hectic typhoid fever before the Honourable court. He has not calculated the delay days properly. The petition is entirely against the apex court judgments. The Honourable court not allow the this type of vague petition in the interest of justice and proper adjudication of this case. The Honourable court may kindly be pleased to dismiss this petition with heavy cost and there by render justice. Hence, the respondent prayed to liable to be dismissed.

4. POINT FOR CONSIDERATION:

4.1. Whether the said application is to be allowed or not?

5. ANSWER TO THE POINT NO.1

5.1. Heard both sides. Records perused. The petitioner who is the complainant had filed this application u/s 142(b) of the Negotiable Instruments Act to condone the delay of 81 days in filing the complaint. The reason stated by the petitioner for

belatedly filing the complaint is that, the petitioner was suffering from typhoid fever. The respondent had only formally objected the petition and contended that there is no material shown or assigned for reason. Medical certificate for taking treatment was produced.

5.2. An application for condonation of delay since proviso to section 142(b) permits condonation of delay in justifiable circumstance. “Provided that the cognizance of a complaint may be taken by the court after the prescribed period, if the complainant satisfied the court that he had sufficient cause for not making a complaint with such period.” If the reasons for delay are properly explained and the court is satisfied, it may entertain the complaint even beyond the permissible period of one month. Relying upon various judgments, the Hon'ble Supreme Court of India in **Maniben Devraj Shah Vs. Municipal Corpn. of Brihan Mumbai** held that, The expression “sufficient cause” used in Section 5 of the Limitation Act, 1963 and other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which serves the ends of justice. No hard-and-fast rule has been or can be laid down for deciding the applications for condonation of delay but over the years this Court has advocated that a liberal approach should be adopted in such matters so that substantive rights of the parties are not defeated merely because of delay. Hence, considering the dictum laid down by the Hon’ble Apex Court, the reason stated by the petitioner is satisfied and the delay could be condoned.

IN THE RESULT:

1. The petition is allowed on cost of Rs.1000/- payable to the respondent on or before 17.06.2026 failing the petition shall stands dismissed automatically.

Directly typed by me in the Computer and corrected by me and the order pronounced in the open court on the 12th day of June 2026.

**/ Sd /- A.K.Padmapriya
Judicial Magistrate,
Komarapalayam.**