

**IN THE COURT OF THE JUDICIAL MAGISTRATE NO.I, PERAMBALUR**

Present: Mrs.P.Subbulakshmi, B.A.,LL.M.,  
Judicial Magistrate No.I,  
Perambalur.

Monday, 10<sup>th</sup> day of July 2023

**CMP.No. 3999/2023**

Mohamed Kalifullah,  
S/o.Mohamed Sultan.

... Petitioner/Complainant

Vs.

Musthafa,  
S/o.Mohamed Hanefa.

... Respondent/Accused

This application came before me on 05/07/2023 in the presence of Mr. S.Sirajudeen, Advocate for Petitioner and Mr.R.R.Sivasubramaniyan, Advocate for Respondent and having stood over for consideration till this day, this court delivers the following,

**ORDER**

1. The complainant / petitioner filed this petition to condone the delay of 3 days to file complaint u/s. 138 of NI Act stating that the complainant could not file this complaint as he did not receive the Postal Acknowledgement Card of Legal Notice sent by the complainant and the said delay is neither wanton nor intentional and therefore, this petition may be allowed and if this petition will not be allowed, then the petitioner will be seriously prejudiced.

2. Whereas, the respondent filed counter and strongly opposed to allow this stating that the complainant filed false case against the respondent and therefore, he could

not file this case within limitation. Further, he contended that each and every date of delay is to be explained and therefore, this petition is liable to be dismissed.

3. From the above and on perusal of record, it reveals that the respondent did not deny the days of delay and on the contrary, the respondent contended that he had not received any money as claimed by the petitioner and in order to discharge the said liability, the accused did not issue the cheque in question in favour of the complainant. When the Respondent denied the borrowal of amount and issuance of the cheque, then it could be decided at the time of trial. But, in this case the petitioner averred that he received the postal acknowledgement card belatedly and therefore, he could not file this case and it is not denied by the respondent also and therefore, this court inclines to allow this petition with cost of Rs.1000/- payable to District Legal Aid Service Authority, Perambalur on or before next date of hearing, failing which, this petition will be dismissed automatically.

*Dictated to Typist and directly typed by her in court  
Computer and after taking print out and after carrying  
out corrections wherever necessary and pronounced by  
me on 10<sup>th</sup> day of July 2023.*

Judicial Magistrate No.I  
Perambalur.