

**IN THE COURT OF THE PRINCIPAL DISTRICT AND SESSIONS JUDGE
AT TIRUVALLUR**

Present: Dr. J. JULIET PUSHPA, Ph.D. (Law)
Principal District and Sessions Judge, Tiruvallur

Saturday, the 18th day of April,2026

Crl.M.P.No.5300/2025 in Unnumbered
Crl.Appeal Filing No.6838/2025

K. Chellaiah, S/o Kalian

.... Petitioner/ Appellant/accused

/Vs/

Palani, S/o Manickam

....Respondent/Respondent/complainant

This petition coming on 01.04.2026 for final hearing before me in the presence of M/s D. Raja, S.Selvam, P. Rajkumar, G. Sureshababu, learned counsel for the petitioner and M/s E.T. Nandhakumaran, , learned counsel for the respondent and upon hearing the arguments of petitioner and having the respondent not filed counter, upon perusing the material case records and having stood over for consideration till this date, this Court delivered the following:-

ORDER

This Criminal Miscellaneous Petition is filed by the petitioner/Accused/ Appellant under section 5 of Limitation Act praying to condone the delay of 18 days in filing Criminal appeal as against Judgment of Judicial Magistrate, Fast Track Court at Magisterial Level, Poonamallee in STC No.538/2018 dated 23.10.2025

2. The averments in the petition in brief :

The petitioner is the accused in STC No.538/2018 on the file of Judicial Magistrate, Fast Track Court at Magisterial Level, Poonamallee. The petitioner filed complaint u/s 200 Cr.P.C. for the offence u/s 138 of Negotiable Instruments Act as against the petitioner. The Trial Court passed judgment on 23.10.2025 convicting the petitioner/ accused thereby sentenced him to undergo one year simple imprisonment and compensation of Rs.2,00,000/- u/s 357(3) of Cr.P.C. within one month days from the date of the judgment , in default to undergone further one week simple imprisonment. The sentence of imprisonment was also suspended as per orders in CMP No.4821/2025 dated 23.10.2025. Due to poor health condition and financial constraints, he could not arrange finance to file appeal and hence, he could not contact his counsel to instruct for filing appeal on or before 22.11.2025. Hence, there is delay of 18 days. The above said circumstances caused delay of 18 days of delay, which is neither willful nor wanton. If the delay is not condoned, he will be put to irreparable loss. Hence, prayed to condone delay of 18 days in filing the Appeal.

3. The respondent though appeared filing vakalath, not filed counter, thus set exparte.

4. No oral or documentary evidence adduced by both side.

5. Now, the point for consideration is

1. Whether the petitioner has made out grounds to condone the delay in filing the appeal?

2. Whether this petition is to be allowed ?

6. POINTS:

Heard both side. Perused records.

The petitioner herein filed the present petition u/s 5 of the Limitation Act to condone the delay of 18 days in filing Criminal Appeal as against the judgment of the learned Judicial Magistrate, Fast Track Court at Magisterial Level, Poonamallee in STC No.538/2018 dated 23.10.2025.

7. Petitioner is the Accused before the Trial Court. The trial Court passed the judgment on 23.10.2025 and convicted the accused and sentenced him to undergo simple imprisonment for one year simple imprisonment and directed him to pay Rs.2,00,000 as compensation u/s 357(3) Cr.P.C. to the respondent/ complainant within a period of one month, in default to the Accused to undergo simple imprisonment for further period one week. Having aggrieved by the said conviction and sentence of the trial court, the petitioner/accused preferred the Criminal Appeal with delay of 18 days and prayed to condone the delay.

8. The petitioner would contend that only due to his poor health and also financial constraints, he could not mobile finance to file appeal and to contact his counsel to give instructions accordingly, which caused the delay of 18 days in filing the appeal. The further contention of the petitioner is that if the delay is not

condoned, serious prejudice and hardships will be caused to the petitioner as he is having good case on merits to succeed in the appeal and therefore prayed for allowing the application.

9. As against the Judgment of the Trial Court, the petitioner has the right of appeal. The reason stated by the petitioner is that due to poor financial condition, there was delay happened appears to be probable as the delay is 18 days.

10. Though the respondent remained *exparte*, in the matter of condoning the delay, it shall not be a matter of routine and also each and every day of delay is not explained by the petitioner as per the dictum of the Hon'ble Apex Court in **2013 (14) SCC 81** (*Basawaraj and another Vs. Special Land Acquisition Officer*), this court considers that no prejudice would be caused to the respondent by allowing this petition as the respondent will have ample opportunity to prove his case in the appeal as against the petitioner in the appeal.

11. In the matters of condonation of delay, the Hon'ble Apex Court in catena of judgments reiterated that the expression "sufficient cause" must receive a liberal construction, so as to advance substantial justice and generally delays in preferring appeals are required to be condoned in the interest of justice where no gross negligence or deliberate inaction or lack of bonafides is imputable to the party seeking condonation of the delay.

12. Though the delay is 18 days and though it is "cause of delay", but not the "length of the delay", in view of the decision of Hon'ble Apex Court in the Judgment reported in **2023 INSC 885** (*Sheo Raj Singh (died) through LRs and*

others Vs. Union of India & another) held that

“It is upon the Courts to consider the sufficiency of cause shown for the delay, and the length of delay is not always decisive while exercising discretion in such matters if the delay is properly explained. Further, the merits of a claim were also to be considered when deciding such applications for condonation of delay...”

Further, a distinction should be drawn between inordinate unexplained delay and explained delay, where in the present case, the first respondent had sufficiently explained the delay on account of negligence on the part of the Government functionaries and the Government counsel on record before the reference court ”

13. In this case, the reason stated by the petitioner that due to financial constraints, the delay happened appears to be probable and not controverted by the respondent as he remained ex parte. No prejudice would be caused to the respondent as he will have ample opportunity to disprove the case of the petitioner in the appeal.

14. Therefore, considering all the above said facts and circumstances, in order to give an opportunity to the petitioner to prove his case, considering the period of delay, and in the interest of justice, this Court is inclined to allow this petition.

In the result, this petition is allowed .

Dictated to Steno-typist , transcribed and typed by him , corrected and pronounced by me in Open Court, this the 18th day of April , 2026

**PRINCIPAL SESSIONS JUDGE,
TIRUVALLUR**

Petitioner and respondent side witnesses and
Exhibits : Nil

**PRINCIPAL SESSIONS JUDGE,
TIRUVALLUR**