

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH AT NAGPUR**

**CRIMINAL APPLICATION (APPP) NO.408 OF 2015**

**IN/AND**

**CRIMINAL APPLICATION (APPA) NO. 26 OF 2015**

*(Shabbir Ahmad Noor Mohammad Vs. Prurushottam Ganpatrao Thakre & the State)*

Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

Shri M. S. Deogade, Advocate for the applicant..  
Shri A. H. Laddhad, A.P.P. for respondent No.2-State.  
None for respondent No.1.

**CORAM : V. M. DESHPANDE, J.**

**DATED : 15<sup>th</sup> OCTOBER, 2015**

Heard.

This is an application for condonation of delay in filing appeal challenging the order of acquittal passed by learned Judicial Magistrate, First Class, Nagpur in Summary Criminal Complaint Case No. 7370 of 2007 by which the learned Magistrate acquitted N.A. No.1 for the offence punishable under Section 138 of the Negotiable Instruments Act.

The delay for preferring the present appeal against acquittal is 34 days.

Though the learned Counsel for non-applicant No.1 is absent, he has already filed his reply to oppose the application for condonation of delay.

The reasons stated in the application for condonation of delay is that learned Counsel Shri Deogade, while calculating the period of limitation, has committed the mistake and, therefore, the delay has occurred. Shri Milind Deogade, learned Counsel has filed his own affidavit before this Court in support of the application for condonation of delay.

I have gone through the contents of the reply filed on behalf of non-applicant No.1.

Looking to the reasons stated in the application for condonation of delay, which is accompanied by an affidavit of the Counsel and the fact that the delay is only of 34 days, in my view, the applicant has made out a case for condoning the delay. That leads me to pass the following order.:

- i) The application is allowed.
- ii) Delay of 34 days in filing the appeal against acquittal is hereby condoned.
- iii) Office to register the application for leave to file the appeal.
- iv) Put up the matter after Diwali Vacation.

**JUDGE**