

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.M.P. No. 889 of 2021**

Shashank Balasaheb Bhapkar S/o Balasaheb Bhapkar, aged about 31 years
R/o. Sai Darbar Shukhwani Garden Pimpri Pune Link Road Police Station
Chinchwad, Pune Maharastra

---- Petitioner

Versus

State of Chhattisgarh through Station House Officer, P.S. Balco (as per FIR,
Distt. Korba (C.G.).

----Respondent

For Petitioner	: Mr. K. Raghavacharyudu, Senior Advocate with Mrs. Astha Shukla & Mr. Chandradeep Prasad, Advocates
For Respondent /State	: Mr. Hari Om Rai, PL

Hon'ble Shri Justice Narendra Kumar Vyas J.**Order On Board****05/10/2021**

1. The petitioner has filed this Cr.M.P challenging the order dated 09/06/2021 whereby the learned trial Court has rejected the application of the petitioner for submission of demand draft of Rs. 5,00,000/-.
2. The petitioner had challenged the order of this Court passed in M.Cr.C No. 7029/2018 before the Hon'ble Supreme Court by filing SLP (Crl.) No. 10790/2019. The Hon'ble Supreme Court vide its order dated 15/03/2021 has disposed of the SLP. The operative part of the order is extracted below:-

“The interim order dated 08/04/2020 stands confirmed subject to the petitioner depositing an amount of Rs. 5,00,000/- (Rupees Five lac only) in each case within six weeks from today before the concerned Trial Court. The said amount shall not be withdrawn. The passport shall also be deposited before the concerned Trial Court, if not already surrendered. The Trial Court is at liberty to impose such other conditions as it may deem fit and proper to its satisfaction”.

3. In compliance of the order, the petitioner filed an application before the

learned Additional Chief Judicial Magistrate, Korba (C.G.) in Criminal Case No. 862/2016 for depositing a demand draft of Rs. 5,00,000/-. The learned ACJM vide impugned order dated 09/06/2021 has rejected the application of the petitioner on the ground that the period given by the Supreme Court of six weeks to deposit the demand draft has already been expired.

4. Learned counsel for the petitioner would submit that after filing of this Cr.M.P, the Hon'ble Supreme Court in reference of cognizance for extension of limitation has passed an order on 23/09/2021. The operative part of the order extracted below:-

“8. Therefore, we dispose of the M. A. No. 665 of 2021 with the following directions:-

I. In computing the period of limitation for any suit, appeal, application or proceeding, the period from 15/03/2020 till 02/10/2021 shall stand excluded. Consequently, the balance period of limitation remaining on 15/03/2021, if any, shall become available with effect from 03/10/2021.

II. In cases where the limitatio would have expired during the period between 15.03.2020 till 02.10.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 03.10.2021. In the event the acual balance period of limitation remaining with effect from 03.10.2021, is greater than 90 days, that linger period shall apply.

III. The period from 15.03.2020 till 02.10.2021 shall also stand excluded in computing the periods prescribed under Sections 23(4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period (s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.

IV. The Government of India shall amend the guidelines for containment zones, to state.

“Regulated movement will be allowed for medical emergencies, provision of essential goods and services, and other necessary functions, such as, time bound applications including for legal purposes, and educational and job-related requirements.”

5. Learned counsel for the petitioner would submit that when the order was passed by the learned ACJM, the order dated 23/09/2021 passed by the Hon'ble Supreme Court was not in existence. The Hon'ble Supreme Court by its order has extended the limitation up to

03/10/2021. Though earlier also, the Supreme Court has already passed various orders by taking Suo Motu cognizance in Miscellaneous Application No. 665 of 2021 in SMW (C) No. 3 of 2020 on 08/03/2021. He would submit that in view of the order passed by Hon'ble Supreme Court on 23/09/2021, he may be given an opportunity to file fresh application before the Additional Chief Judicial Magistrate for depositing a demand draft as ordered by the Supreme Court.

6. Considering the submission of the counsel for the petitioner, this Cr.M.P is disposed of with liberty to the petitioner to file an application before the ACJM for permission to deposit the demand draft of Rs. 5,00,000/- in light of the subsequent order passed by the Hon'ble Supreme Court.
7. With the aforesaid observations and direction, the instant Cr.M.P. stands disposed of.

Sd/-

(Narendra Kumar Vyas)
Judge