

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.234 OF 2015

Venjara E. Salemhamed @ Son

..Applicant

Versus

Agnel D'Silva & Anr.

..Respondents

Mr. Sunilkumar J. Kanoujia a/w Mr. Sachin Y. Kanoujia, Advocate
for the Applicant.

Mrs. Rutuja Ambekar, APP for the Respondent - State.

CORAM : NITIN W. SAMBRE, J.

DATE : 7th DECEMBER, 2021

PC.

1. Complaint is based on the dishonor of cheques which were returned by the banker of the respondent for insufficient funds.

2. The return memo is shown to be dated 29.10.2013 whereas statutory notice was issued on 30.11.2013 which is delayed by two days as prescribed by the statute. Since the limitation period for issuing statutory notice under Section 138 of the Negotiable Instruments Act is already held to be mandatory, applicant/complainant has not come with any explanation for such delayed issuance of statutory notice. Apart from above, though the applicant has come with the intimation about return of cheque beyond 28.11.2013, no material documentary evidence is produced

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on record to substantiate said contention.

3. That being so, dismissal of the complaint on the ground that the statutory notice was issued beyond period of limitation appears to be quite justified.

4. No case for grant of leave is made out. Leave stands refused.

5. Application as such stands rejected.

[NITIN W. SAMBRE, J.]