

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRM-33820 of 2017 in/and
CRM-A-2276-MA of 2017**

DECIDED ON: 25th July, 2022

M/s A&A Finance

**.....APPLICANT/APPELLANT
VERSUS**

Sanjay Sainani

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN.

Present: Mr. J.S. Lalli, Advocate for applicant-appellant.

AVNEESH JHINGAN, J (ORAL)

The application filed under Section 378(4) of Cr.P.C., is accompanied by an application for condonation of delay of 102 days in filing the appeal/application.

As per the contents of the application for condonation of delay, the complaint under Section 138 of Negotiable Instruments Act, 1881 was dismissed as premature on 27th April, 2017. Certified copy of the order was applied on 2nd May, 2017, copy prepared on 6th May, 2017 and delivered to the counsel on 9th May, 2017. Certified copy got mixed up with the papers of the trial Court counsel. The applicant contacted his counsel of trial Court in end of September, 2017 and gained knowledge that the complaint had been dismissed.

The pleadings in the application are factually wrong. From the impugned order, it is forth coming that the applicant along with his counsel was present on 27th April, 2017, when the complaint was dismissed. The presence of the applicant itself falsifies the pleading that he had gained knowledge of dismissal of complaint in September 2017.

The Supreme Court in State of Nagaland v. Lipok Ao, 2012 (3)

RCR (Civil) 73: 2012 (2) Recent Apex Judgments (RAJ) 482: 2012 (5) SCC

157, in paragraph 24 has held as under:

"24. What colour the expression "sufficient cause" would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay."

Considering that the false plea has been made, no ground is made out for condoning the delay in filing the application.

Dismissed.

Since the main case has been dismissed, the pending application, if any is accordingly disposed of.

25th July, 2022
reema

(AVNEESH JHINGAN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>