

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

CRIMINAL WRIT PETITION NO.143 OF 2019

**BHASKAR S/O. PANDHARINATH KURWADE
VERSUS
SHRIKANT S/O. SARJERAO UGALMOGALE**

Mr. V. P. Savant, Advocate for the petitioner
Ms. Rani r. Tandale, Advocate hf/ Mr. S. S. Thombre, Advocate for the respondent

CORAM : R. M. JOSHI, J.

DATE : 5th SEPTEMBER, 2023

P.C. :-

1. This petition takes exception to the order dated 22nd October, 2018 passed below Exhibit 1 in Cri. M.A. No. 468/2016 filed in S.C.C. No. 561/2018 by learned JMFC, Kaij, Dist. Beed.

2. The petitioner is the original respondent in S.C.C. No. 561/2018 pending before the JMFC, Kaij filed for the offence under Section 138 of the Negotiable Instruments Act. In the said proceeding process was issued by the Trial Court however, in view of the judgment of the Hon'ble Supreme Court on jurisdiction of the Court, the said complaint was returned to the complainant for its presentation before the proper Court by order dated 17th October, 2014. Pursuant to the said order the original complainant did not present the same before the Competent Court till 18th August, 2016. Under the impression that there is delay in

presentation/filing of the said complaint and application was filed for condonation of delay. The said application came to be contested also.

3. The aforestated facts clearly indicate that present case is not one of filing of complaint at the first instant beyond period of limitation but it was a case where after filing of complaint in time and after issuance of process, complainant was directed to present the complaint before Court having jurisdiction in view of directions of Hon'ble Apex Court. Since the complaint was filed well within the period of limitation, there was no question of any condonation of delay. Learned Magistrate was therefore required to proceed further with the case after his presentation from the stage it was transferred from erstwhile Court. In such circumstances, there was no reason or justification to entertain application for condonation of delay. Hence order dated 22nd October, 2018 deserves no interference. Learned Trial Court to proceed with S.C.C. No. 561/2018 in accordance with law.

(R. M. JOSHI, J.)

ssp