

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

CRIMINAL WRIT PETITION NO.388 OF 2023

**ARUN SEEDS AND PESTICIDES THROUGH ITS PROPRIETOR
RAJENDRA GOVINDRAO KASHIKAR
VERSUS
AJEET SEEDS PVT. LTD., AURANGABAD THROUGH ITS
AUTHORIZED SIGNATORY PERSON SANJAYBAJIRAO JADHAV**

Mr. V. B. Jadhav, Advocate for the petitioner

Mr. S. P. Shah, Advocate h/f Mr. P. A. Bhosle, Advocate for respondent
No.1.

CORAM : R. M. JOSHI, J.

DATE : 31st JULY, 2023

P.C. :-

1. This petition takes exception to the order dated 01/02/2023 passed by the learned Addl. Sessions Judge, Aurangabad of rejecting application for condonation delay of 114 days caused in preferring the criminal revision application against order dated 21/04/2022 passed in SCC No. 2988 of 2022 of issuance of process for the offence punishable under Section 138 of Negotiable Instruments Act.

2. Learned counsel for the petitioner says that delay caused in filing the revision application is not deliberate. According to him in the interest of justice that ought to have been condoned by the learned Addl. Sessions Judge.

3. Learned counsel for the respondent opposed the said contention by stating that delayed filing of revision is part of dilatory tactics adopted by the accused in order to ensure the proceeding before the learned Magistrate does not get over in short time.

4. It is settled position of law that lis between the parties is as far possible to be decided on merit than on technicalities. From prima facie perusal of the application filed before the learned Addl. Sessions Judge for condonation of delay, no malafides can be attributed against the petitioner herein. Similarly, there is no material change caused in the position of other side by such delayed filing. Having regard to the facts and circumstances of the case the delay caused in preferring the criminal the revision application deserves to be condoned subject to cost of Rs.10,000/- (Rupees Ten Thousand only) payable by the petitioner to the respondent.

5. Application for condonation of delay is allowed. Criminal revision application be registered. Parties are directed to appear before the Addl. Sessions Court, Aurangabad on 7th August, 2023. No separate notices are to be issued to the parties their appearances in the said proceedings. Learned Addl. Sessions Judge to decide the revision within a period of three (03) months from 7th August, 2023.

6. The petitioner is directed to pay the amount of cost of Rs. 10,000/- to the respondent on or before 7th August, 2023. Learned Addl. Sessions Judge to verify as to whether the amount of cost is paid by the petitioner to the respondent. Only after ascertaining the said fact the revision petition to be registered and proceeded with. In case the amount of cost is not paid within a said period, present order of direction to register the criminal revision application shall stand vacated without further reference to the Court and eventually present petition also shall stand dismissed.

7. Learned Trial Court not to proceed with SCC No. 2988 of 2022 till 7th August, 2023. Learned Addl. Sessions Judge not to extend the stay order as matter of course. It is however open for the learned Addl. Sessions Judge, Auarnagbad to pass appropriate order on merit.

8. Parties to act upon authenticated copy this order.

(R. M. JOSHI, J.)

ssp