

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

**CRIMINAL WRIT PETITION NO.1098 OF 2022**

VASANTRAO NAIK KRUSHI SEVA KENDRA, PANGARI, DIST.  
BEED THROUGH RAMESHWAR DAMU PAWAR  
VERSUS  
SOURABH KRUSHI SEVA KENDRA, JATEGAON THROUGH  
CHHABAN VITTHAL CHAVAN

...

Mr. V. P. Savant, Advocate for the Petitioner.

Mr. Y. K. Bobade, Advocate for Respondent.

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**CORAM : S. G. CHAPALGAONKAR, J.**

**DATE : 24<sup>th</sup> AUGUST, 2023.**

**PER COURT:-**

1. The petitioner impugns the order dated 29.06.2022 passed by the Additional Sessions Judge-4, Beed in Criminal Miscellaneous Application No.17/2012 by which the prayer of the petitioner to condone the delay of 3 years 16 days caused in filing the Revision Application against the order issuing process under Section 138 of the Negotiable Instrument Act has been rejected.

2. Mr. Savant, learned Advocate appearing for the petitioner would submit that the learned Judicial Magistrate, First Class has passed the order issuing process under Section 138 of the Negotiable Instrument Act on 24.01.2019. The petitioner appeared before the Magistrate and recorded his plea in the month of August-2019. Thereafter, as advised to him, he preferred Revision Application before the Sessions Judge. However, period of limitation prescribed for filing the Revision

was over. Hence, the application for condonation of delay was filed vide Criminal M. A. No.17/2014. He would submit that the petitioner has strong case on merit. The delay occasioned in filing the Revision Applicant was unintentional. He would further submit that, although the delay of more than 3 years is appearing, the most of the time is pardonable in view of the general direction of the Supreme Court of India exempting the Covid period from limitation. Mr. Savant would rely upon the observation of the Supreme Court of India in the matter of ***Collector, Land Acquisition, Anantnag and Another Vs. Mst. Katiji and Others***<sup>1</sup>.

3. Per contra, Mr. Bobade, learned Advocate appearing for the respondent would submit that the order issuing process is passed on 24.01.2019. Thereafter, the petitioner appeared before the Trial Court. In the month of August, he has recorded the plea. Now the matter is at the stage of evidence. He would submit that absolutely there is no explanation in the application to the delay from 24.01.2019 till the filing of the application.

4. Having considered the submissions advanced, it can be gathered that the petitioner was aware about the order of issuance of process and he was served with the summons. Even, he had appeared before the Magistrate. Thereafter, in the month of August he recorded plea. The Revision Application is tendered after three years of his appearance before the Magistrate. Even, it is assumed that the period of Covid pandemic is to be exempted from consideration while counting the limitation, there is absolutely no explanation for the period from 24.01.2019 till

March, 2020. The learned Session Judge recorded elaborate reasons in support of rejection of the prayer for delay condonation. Although, solutory preposition of law espoused in case of ***Collector, Land Acquisition, Anantnag and Another Vs. Mst. Katiji and Others*** (supra) is relied on behalf of the petitioner in the facts of the present case, the right is accrued in favour of respondent on account of gross negligence of the petitioner.

5. In that view of the matter, no case is made out to interfere in Writ jurisdiction of this Court. Hence, Writ Petition is dismissed.

**(S. G. CHAPALGAONKAR)**  
**JUDGE**