

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

978 APPLN. FOR LEAVE TO APPEAL BY PVT. PARTY NO.156 OF 2019

NARAYAN S/O. DEVRAO SHETE
VERSUS
SHAIKH NABISAAB S/O. SHAIKH HABIBSAAB

...
Advocate for Applicant : Mr. Vaibhav B. Dhage
Advocate for Respondent : Mr. R.P. Bhumkar
...

CORAM : R. M. JOSHI, J.
DATE : JULY 26, 2023

PER COURT :

. This application is filed taking exception to the judgment and order of acquittal of respondent - accused for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter, 'N.I. Act').

2. Learned counsel for applicant states that due to inadvertence in considering the date of memo issued by the Bank intimating dishonour of cheque, the notice was not issued by the advocate for complainant within the statutory period. He submits that for the fault of the advocate party cannot be made to suffer. To substantiate his contention, he placed reliance in the case of **Tahil**

Ram Vs. Ramchand, 1993 AIR (SC) 1182.

3. Learned counsel for applicant may be right in submitting that the party cannot be made to suffer for the fault of advocate, however the provisions of Section 138 of N.I. Act are mandatory in nature. Timeline fixed by the statute needs to be adhered to. Unlike Section 142 of N.I. Act no extension of time can be granted for this compliance. Hence, this court finds no reason to allow the application and the application stands dismissed.

**[R. M. JOSHI]
JUDGE**

GGP