

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO. 3641 OF 2022

The Commercial Co-op. Bank Ltd.,
Kolhapur

... Petitioner

v/s.

The State of Maharashtra and ors.

.... Respondents

Ms. Manisha Devkar a/w. Mr. Shankar Katkar for the Petitioner.
Mr. A.R. Patil, APP for the State.
Mr. Niranjana Mundargi i/b. Veerdhawal Deshmukh for the
Respondents.

CORAM: R.G. AVACHAT, J.
DATED : 17th JANUARY, 2023.

P. C. :-

1. The challenge in this Petition is to the order passed by the Revisional Court dismissing the Petitioner's Complaint under section 138 of Negotiable Instruments Act on the ground of not being filed within a period of limitation of one month from the date of accrual of cause of action.

2. The delay is stated to be of two days. According to the learned counsel for the Petitioner, there was infact no delay and the period of limitation of one month is to be calculated in terms of 30 days or a month. According to the learned advocate for the Respondent, period of limitation is to be calculated by a calendar month.

3. Without going into this controversy, the Petition can very well be disposed of in view of the Apex Court judgment in *Suo Motu WP (C) No.3 of 2020* dated 10/01/2022. The Apex Court in clause 5.4 of the judgment has observed thus :-

“ 5.4 It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23(4) and 29-A of the Arbitration and Conciliation Act, 1996. Section 12-A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings. ”

4. In view of the above clause 5.4 of the Apex Court judgment, the period of limitation would have commenced on 01/03/2022. In view of the same, the Complaint shall be deemed to have been filed within limitation. The Writ Petition therefore succeeds. The Petition is thus allowed in terms of prayer clause (b). The Trial Court is requested to decide the matter on its own merits within a period of 12 months from the date of receipt of copy of this order.

5. Petition stands disposed of accordingly.

PREETI
H JAYANI

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(R.G. AVACHAT, J.)