



116

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CRR-300-2024 (O&M)  
DATE OF DECISION: 04.07.2024**

**SUKHBIR****...PETITIONER****Versus****RAMESH****... RESPONDENT**

**CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present: Mr. Punit Malik, Advocate for the petitioner(s).  
Mr. M.K. Perwej, Advocate for the respondent.

\*\*\*

**SANDEEP MOUDGIL, J (ORAL)**

This revision petition has been filed challenging the order dated 31.01.2024 passed by JMFC, Patudi vide which the application for condonation of delay in filing the complaint under Section 138 of NI Act was dismissed.

Learned counsel for the petitioner has prayed for quashing of that order by submitting that the trial Court ought to have framed issue once an application has been preferred by the petitioner and the dismissal of the same merely on account of filing the said application after lapse of six years without framing issue is bad.

Learned counsel for the respondent has taken support from the observation made JMFC, Patudi in its impugned order and has relied upon the judgment 'Kamal Singh vs. Mukesh Sharma and ors.' passed by this Court. He submits that the impugned order is just, legal and in accordance with law and as per proposition of law that i.e. an application for condonation of delay cannot be filed at any stage.

2024:PHHC:082887



CRR-300-2024 (O&M)

-2-

Be that as it may, such technicalities are not to be taken into account in a criminal proceeding by the Trial Court to address the manner in which the instant application seeking condonation of delay is dismissed. The procedure to be followed was that on an application after having receipt of reply from the respondent-accused an issue ought to have been framed to the effect that whether the complaint filed under Section 138 of NI Act is suffering from inordinate delay and latches and thereafter, providing ample opportunity to lead evidence on that issue should have been adjudicated at the time of passing the final judgement but same has not been followed by the Trial Court, therefore, the impugned order suffers from illegality and the same is not sustainable.

Consequently, impugned order dated 31.01.2024 is quashed and the Trial Court is directed to frame an issue on the question of delay in filing the complaint in question, thereafter, adjudicate the same by following the procedure as per law.

The revision petition is allowed in the above terms.

(SANDEEP MOUDGIL)  
JUDGE

04.07.2024  
anuradha

|                                  |               |
|----------------------------------|---------------|
| <i>Whether speaking/reasoned</i> | <i>Yes/No</i> |
| <i>Whether reportable</i>        | <i>Yes/No</i> |