



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

135

CRM-M-59872-2024

Date of decision: 02.12.2024

Baljinder Singh Arora

.....Petitioner

Versus

Gurpreet Singh Toor

.....Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Vijay Lath, Advocate and
Mr. Naveen Sharma (Moudgil), Advocate
for the petitioner.

MANJARI NEHRU KAUL, J. (ORAL)

1. The petitioner is seeking quashing of order dated 20.12.2023 (Annexure P-5) passed by learned Judicial Magistrate 1st Class, Jalandhar in case bearing No.CRM/3526/2023, vide which the delay in filing the complaint has been condoned without notice to the petitioner, as well as summoning order dated 18.09.2024 (Annexure P-6) passed in Complaint Case No.NACT/36756/2023 of 20.12.2023.

2. Learned counsel for the petitioner asserts that the learned trial Court vide impugned order dated 20.12.2023 (Annexure P-5) erroneously condoned the delay in filing a complaint under Section 138 of the Negotiable Instruments Act, 1881 (hereinafter referred to as, 'the Act'), without affording an opportunity of hearing to the petitioner/accused. While drawing the attention of this Court to the complaint, annexed as Annexure P-3, it is submitted that the complaint was admittedly filed after a delay of over 36 days, accompanied by



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application seeking condonation of delay on insufficient and frivolous grounds that the respondent being a Non-Resident Indian (NRI) could not contact his counsel in time and was unaware of the limitation period.

3. Learned counsel contends that the trial Court, without issuing notice of motion to the petitioner and without providing him an opportunity of being heard on the application for condonation of delay, went ahead and allowed the said application. This, as per the learned counsel, is in clear contravention of law laid down by the Hon'ble Supreme Court in '*State of Maharashtra vs. Sharadchandra Vinayak Dongre and others*' AIR 1995 SC 231, which unequivocally mandates that condonation of delay in initiating criminal proceedings cannot be granted without issuing notice to the accused.

4. After advancing arguments, learned counsel submits that he would be satisfied if the impugned order is set aside and the matter is remanded back to the learned trial Court with a direction to pass a fresh order on the application for condonation of delay after affording the petitioner a reasonable opportunity of being heard.

5. In light of the submissions made and the settled law, this Court deems it appropriate to remand the matter to the learned trial Court for reconsideration. The learned trial Court is directed to pass a fresh order on the application for condonation of delay, ensuring that the petitioner is afforded a reasonable opportunity of being heard before deciding the application.

6. The petition stands disposed of accordingly.

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7. However, it is made clear that anything observed hereinabove shall not be construed to be an expression of opinion on the merits of the case.

02.12.2024

(MANJARI NEHRU KAUL)
JUDGE

Vinay

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No