



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY PRIVATE PARTY NO.131 OF 2025

Satish Subhashrao Avhad

...Applicant

VERSUS

Sachin Punjaram Limbhure and Anr

...Respondents

...

Mr. K. B. Jadhav, Advocate for Applicant

Mr. A. N. Barhate Patil, Advocate for Respondent No. 1

Mrs. P. V. Diggikar, APP for Respondent No.2/State

CORAM : ABHAY S. WAGHWASE, J
RESERVED ON : DECEMBER 09, 2025
PRONOUNCED ON : DECEMBER 10, 2025

ORDER:

1. Original Complainant, is hereby questioning the judgment and order dated 09.09.2025 passed by learned CJM, Kopergaon in Criminal M.A. No. 143/2022 rejecting application for condonation of delay caused in proceeding Section 138 of Negotiable Instruments Act ("N.I. Act").

2. Learned Counsel for the Applicant point out that, towards outstanding amount of Rs.3,00,000/- against present Respondent No.2, cheques were issued but the same were dishonored and memo to that extent was received on 10.02.2022. That, thereafter legal notice was also dispatched to the Respondent calling upon him to pay cheque amount. That, said notice was duly received, however, thereafter complainant fell ill and

due to illness, he could not take steps of instituting proceedings under Section 138 of N.I. Act and for above reasons, delay of 16 days caused in lodging complaint. Learned Counsel for Applicant pointed out that, evidence in the form of medical certificate was adduced to show that Applicant was suffering from ailment and, therefore, delay was duly justified, however, the same has not been considered and moreover, learned Trial Court rejected the application for condonation of delay vide impugned order. For above reasons, he urged to accord leave.

3. Learned Counsel for Respondent No. 2 pointed out that complaint ought to have been filed within stipulated period i.e. after receipt of legal notice. That, reasons for ailment is given but the same were proved to be false and there is discussion to that extent in the impugned order. He specifically invites attention of the Court to the observations of the Trial Court in paragraphs 14 and 15. For above reasons, he urges to refuse leave.

4. Here, it seems that present Applicant is the original Complainant who intends to institute Section 138 of N.I. Act proceedings on account of dishonor of cheque and failure to pay cheque amount by present Respondent with whom there was some transaction. However, delay of 16 days seems to have occurred in filing complaint, therefore, Criminal M.A. No. 143/2022 was instituted but same was dismissed.

5. After considering submissions, here it seems that delay of 16 days is attributed to the illness. However, as pointed out and on going through paragraph 14 of the impugned judgment, it is emerging that, complainant set up a case of he to be suffering from dengue and chicken guniya and was taking treatment in the hospital of Goyal. But, in spite of above contentions, no medical papers are placed on record. On the contrary, medical certificate Exhibit 17 carried ailment of urinal infection, which in cross he admitted he never suffered. Therefore, oral contentions and Exhibit 17 to be self contradictory, learned Trial Court rightly rejected application.

6. It is to be noted that, offence of Section 138 N.I. Act is technical and, therefore, conditions and limitations are expected to be scrupulously adhered. Delay in lodging Section 138 N.I. Act complaint can only be condoned when sufficient cause has been made out. Here complainant failed to satisfy that medical reason put forth by him withheld him from taking steps in filing proceedings within stipulated period.

7. For above reasons, this Court does not find any valid reason or merit so as to accord leave. Judgment sought to be impugned, carries proper analysis and is supported by sound reasons. No case being made out on merit, application required to be dismissed. Hence, I proceed to pass following order:

ORDER

- (i) Leave is refused.
- (ii) Application for leave to appeal filed by private party stands rejected.

(ABHAY S. WAGHWASE, J.)

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