



Judgment

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL WRIT PETITION No. 59 OF 2025.

Sau Nutan w/o Rakesh Singh,
Aged about 44 years, Occupation
Business, resident of 43, Welcome Nagar,
Near Morden School, Koradi Road,
Nagpur, District Nagpur.

... **PETITIONER.**

VERSUS

1.Shri Kaushal Guru Oil Industries,
Vasant Nagar, Talegaon Road, Arvi,
District Wardha.
A registered firm through its
proprietor Shri Kishor s/o Nathmal Chordia,
Aged about 58 years, Occupation
Business, resident of Vasant Nagar,
Talegaon Road, Arvi, District Wardha.

2.M/s. Gauri Poultry Private Ltd
Corporation, Nagpur.

3.Rakesh s/o Father Name not known,
Aged about 45 years, Occupation
Business,

4.Upendra s/o Brijnandansingh
Aged about 50 years, Occupation
Business,
(Deleted as per Courts order dated 09.05.2025)

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2 to 4 all resident of 43, Welcome Nagar,
Near Morder School, Koradi Road,
Nagpur, District Nagpur.

... **RESPONDENTS.**

Mr. V.C. Singh, Advocate for the Petitioner.
Mr. P.A. Dharaskar, Advocate for Respondent No.1.

CORAM : M.M. NERLIKAR, J.
DATE : SEPTEMBER 26, 2025.

ORAL JUDGMENT.

Heard. The present petition is filed by the petitioner under Article 227 of the Constitution of India, challenging the order dated 04.10.2024 passed by the Additional Sessions Judge, Wardha in OMC No.32/2024, by which the application seeking condonation of delay of 529 days in filing revision against the order of issuance of process in S.C.C.No.566/2020, came to be rejected.

2. The learned Counsel appearing for the petitioner submits that, the learned Additional Sessions Judge erred in rejecting the application for the reason that the delay is only of 529 days. He further

submits that the petitioner has given sufficient explanation and sufficient cause in order to condone the delay, and that the delay is neither intentional, nor deliberate. The matter ought to be decided on merits, and it should not be rejected mechanically on mere technicalities. It is submitted that proceedings under Section 138 of the Negotiable Instruments Act are initiated against the petitioner, therefore, the rights are required to be crystallized on the basis of merits, and therefore, on a mere technicality, the Court ought not to have rejected the application filed by the petitioner.

3. On the other hand, the learned Counsel for the respondent has invited my attention to the application for condonation of delay filed by the petitioner before the Additional Sessions Judge, Wardha wherein in paragraph no.2, it is stated that the petitioner was not aware about filing of the proceeding before the Court and recently in another matter he was engaged a counsel and the counsel was searching another matter by petitioner's name, where he came across the information about present matter. The learned Counsel for respondent stated that the said option which is shown in paragraph no.2 is not available to the petitioner, and

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there is no sufficient cause or explanation to condone the delay in filing revision application.

4. Upon hearing the parties, it appears from the record that the process was issued on 22.08.2022, and all the parties were duly served. It also appears that a non-bailable warrant was issued against the present petitioner, and she only thereafter appeared before the Court for cancellation of the Non-bailable warrant. It further appears that as the order for issuance of process was passed against the present petitioner, she has preferred a revision, however, there was a delay of 529 days in preferring the said revision, and that the said application for condonation of 529 days was rejected by the learned Additional Sessions Judge, Wardha.

5. Considering above facts, no doubt there is a delay of 529 days in filing the revision application. It further appears that in paragraph nos.2 and 3 of the application for condonation of delay, the petitioner has tried to explain the delay, but, as is observed by the Sessions Court, that the petitioner was aware of notice of the trial Court

on 30.08.2023, and so the explanation which was given by the petitioner was not accepted by the learned Additional Sessions Judge, Wardha. It is a settled principle of law that procedural aspects cannot thwart the judicial process, and also rights of the parties are always to be decided on merits and not on technical grounds. Though there is a delay of 529 days in filing the revision application, however, for the reasons set out in paragraph nos.2 and 3 of the application for condonation of delay, I am inclined to condone the delay, and that respondents can be compensated by imposing cost on the petitioner.

6. The order passed by the Additional Sessions Judge, Wardha below Exh.1 in OMC No.32/2024 on 04.10.2024 is hereby quashed and set aside, subject to payment of costs of Rs.20,000/- by the petitioner to the respondents. The amount of cost be paid to the respondents directly. If she is not able to pay the same directly, she shall deposit the same with the Revisional Court, and the Revisional Court is directed to disburse the said costs to the respondents. On compliance the of above direction of deposit of costs, the Additional Sessions Judge, Wardha is directed to register the revision and decide the same on merits.

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7. In this view of the matter, Criminal Writ Petition is allowed and disposed of.

JUDGE