



CRL RC(MD)No.664 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON : 29.08.2025

PRONOUNCED ON : 20.11.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

CRL RC(MD)No.664 of 2025

and

CRL MP(MD)No.7322 of 2025

V.Kannan

... Petitioner / Respondent

Vs.

P.Pon Rajesh,
Rep. by Special Power of Attorney
Holder Mr.N.Ramamoorthy,
S/o.Nammalavar,
Door No.3/2137, Middle Street,
Kannan Kovil Street,
Sengamala Nachiyarpuram,
Thiruthangal,
Virudhunagar District.

... Respondent /Petitioner

PRAYER: Criminal Revision Petition is filed under Section 438 r/w 442 of BNSS, 2023, to call for the records relating to the impugned order dated 14.05.2025 passed in CrI.M.P.No.5378 of 2022 on the file of the learned Judicial Magistrate No.I, Sivakasi, and set aside the same as illegal.



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For Petitioner : Mr.R.Jaswanth Ram,
For Mr.C.Sundaravadivel

For Respondent : Mr.Porkodi Karnan,
For M/s. Polax Legal Solutions

ORDER

Preface:

This Criminal Revision Case is directed against the order dated 14.05.2025 passed in CrI.M.P.No.5378 of 2022 in S.T.C.SR.No. 6696/2022 by the learned Judicial Magistrate No.I, Sivakasi, whereby the learned Magistrate allowed the petition filed under Section 142(1)(b) of the Negotiable Instruments Act, 1881, seeking condonation of delay in filing a complaint under Section 138 of the said Act.

2. The petitioner/accused has preferred the present revision under Sections 438 & 442 of BNSS, 2023, challenging the said order on the ground that the condonation was granted mechanically without any valid reason or appreciation of evidence.

Case of the complainant:

3. The respondent herein, one Pon Rajesh, had business



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transactions with the petitioner V.Kannan. Towards discharge of a legally enforceable debt, the petitioner issued a cheque drawn on Vijaya Bank, bearing No. 307901011001635. The said cheque, when presented by the complainant through his banker on 27.06.2022, was returned unpaid with the endorsement "Bank on Blockage".

4. Consequently, the complainant issued a statutory notice through his counsel on 05.07.2022, calling upon the accused to pay the cheque amount within 15 days from the date of receipt of the said notice. The accused is said to have sent a reply notice on 20.07.2022. Thereafter, due to hectic arrangements for a marriage ceremony in the complainant's family, the original cheque and related documents were allegedly misplaced and could not be traced immediately. According to the complainant, the documents were finally traced on 15.08.2022, and thus, there was an unavoidable delay of 11 days in filing the complaint. Hence, a petition was filed under Section 142(1)(b) of the N.I. Act, 1881, seeking condonation of the delay.



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5. Gist of the learned Trial Court's order in Crl.M.P.No.5378 of 2022:

The learned Judicial Magistrate No.I, Sivakasi, after hearing both sides, passed a detailed order allowing the condonation petition. The learned Trial Court recorded the following findings:

(i) It was admitted that the cheque in question belonged to the accused and bore his signature, and that it was dishonoured on presentation. The statutory notice dated 05.07.2022 was issued within the period prescribed under Section 138(b) of the N.I. Act, 1881. Though the complainant failed to mention the exact date of receipt of notice by the accused, the learned Trial Court held that such omission was not fatal since the postal acknowledgment was on record. It was observed that the Power of Attorney Agent, namely, Ramamoorthy (father-in-law of the complainant), had filed the affidavit narrating the circumstances under which the documents were misplaced and traced. The learned Magistrate held that whether the agent had personal knowledge or not was a matter to be tested during trial, and hence, it could not affect the maintainability of the condone delay petition.

(ii) The learned Trial Court computed that though the delay was



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actually 17 days, the mention of 11 days instead of 17 would not vitiate the proceedings, as the same was only a minor clerical error. The learned Magistrate further held that the reason assigned, misplacement of the cheque during marriage preparations, was reasonable and bona fide, as it was a humanly possible event not indicative of negligence or mala fide intent.

(iii) The learned Trial Court distinguished the case laws cited by the accused (***Mohd. Sahid v. Raziya Khanam*¹**, ***K. Thirumalselvan v. Indira Gandhi*²**, ***Niutya Gopal v. Ani Kumar Verma*³**), holding that they pertained to either appeal delays or long delays exceeding several months, unlike the short delay of 11/17 days herein.

(iv) On the above reasoning, the delay petition was allowed, and the complaint under Section 138 N.I. Act, 1881, was directed to be taken on file.

6. Grounds of revision:

¹ 2019 11 SCC 384

² MANU/TN/2278/2021

³ MANU/TN/2213/2017



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The revision petitioner/accused assailing the said order of the learned Trial Court below has filed this revision petition on the following grounds:

(i) The impugned order is contrary to law, weight of evidence, and suffers from manifest error. The learned Trial Court erred in allowing the condone delay petition without proper consideration of oral and documentary evidence. The complainant failed to show sufficient cause for delay under Section 142(1)(b) N.I. Act, 1881. The affidavit in support of the petition was sworn by the Power Agent Ramamoorthy but contained averments in the individual capacity of the complainant, rendering it defective. The complainant had executed the Power of Attorney on 30.08.2022, whereas the cheque was traced on 15.08.2022. Thus, there is no plausible explanation why the complainant did not file the complaint himself prior to 30.08.2022.

(ii) The courts below ignored material inconsistencies regarding the number of days of delay (11 versus 17). The finding that the signature on the cheque was admitted was perverse since no such admission was made by the accused. The learned Trial Court erred in holding that absence of date of receipt of notice does not vitiate the case. Reliance on precedents was misapplied, ignoring binding



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authorities like ***Mohd. Sahid v. Raziya Khanam***⁴, ***K. Thirumalselvan v. Indira Gandhi***⁵, ***Niutya Gopal v. Ani Kumar Verma***⁶.

Submissions:

7. The learned counsel for the petitioner submitted that the Magistrate had condoned the delay mechanically without recording satisfaction as to “sufficient cause” under Section 142(1)(b) of the N.I. Act, 1881. The affidavit filed by the Power Agent was defective, vague, and inconsistent with dates. The explanation of “misplacement of cheque” during marriage arrangements was an afterthought to justify a deliberate delay. Moreover, the computation of delay was incorrect, and the Court below failed to notice the contradiction in the Power of Attorney dated 30.08.2022 and the alleged tracing of cheque dated 15.08.2022.

8. Conversely, the learned counsel appearing for the respondent contended that the cheque admittedly belonged to the petitioner and was dishonoured, that the statutory notice was issued in time, and that a short delay of 17 days had been properly explained by genuine

⁴ 2019 11 SCC 384

⁵ MANU/TN/2278/2021

⁶ MANU/TN/2213/2017



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reasons. The law mandates liberal interpretation in condonation matters to promote substantial justice. The learned Trial Court's order was well-reasoned, supported by precedents recognizing that minor procedural lapses should not extinguish substantive rights.

9. Heard the learned counsels on either side and carefully perused the materials available on record.

10. ***Point for consideration:***

Whether the Court below was justified in condoning the delay of 17 days in filing the complaint under Section 138 of the Negotiable Instruments Act, 1881, in the facts and circumstances of the case?

Analysis:

11. The core issue revolves around the scope of Section 142(1)(b) of the N.I. Act, 1881, which empowers the Magistrate to take cognizance of a complaint filed beyond the prescribed period if “the complainant satisfies the Court that he had sufficient cause for not making the complaint within such period.”



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12. It is a settled principle that “length of delay is not material; the sufficiency of cause is.” The test is whether the explanation offered appears to be bona fide and free from negligence or mala fide intent.

13. In the present case, the complainant has asserted that the delay occurred due to misplacement of the cheque during marriage preparations and an explanation consistent with ordinary human conduct. Although the Power Agent executed his authority on 30.08.2022, the delay sought to be condoned pertains only to a fortnight, which cannot be said to be inordinate or wilful.

14. The defect pointed out regarding the date of receipt of statutory notice is not fatal. The postal acknowledgment was filed, and the accused himself had sent a reply notice dated 20.07.2022, thereby admitting receipt. Once such admission is evident, the absence of a specific date in the affidavit does not vitiate the proceedings.

15. The discrepancy between 11 and 17 days is a mere arithmetical variation, not affecting the substance of the condonation petition. This Court is not inclined to adopt a pedantic approach when



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the cause of delay is neither mala fide nor indicative of want of diligence.

16. The judgments cited by the petitioner are distinguishable on facts that they relate to long and unexplained delays (ranging from several months to years) or appeals under Section 5 of the Limitation Act, 1963, not short delays under Section 142(1)(b) N.I. Act, 1881. The legislative intent under the N.I. Act, 1881, is to ensure that technicalities do not defeat the object of penalizing cheque dishonour, while balancing fairness to both parties.

17. In this context, the revisional jurisdiction of this Court is narrow and supervisory. Unless the finding of the lower Court is perverse or manifestly illegal, interference is unwarranted. The learned Trial Court's order is a reasoned one, showing application of mind to each contention raised.

18. In view of the foregoing discussion, this Court finds no perversity, illegality, or material irregularity in the order of the learned Judicial Magistrate No.I, Sivakasi, dated 14.05.2025, in Crl.M.P.No.



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5378 of 2022. The reasoning is cogent, and the condonation of 17 days delay is supported by sufficient cause.

19. Accordingly, this Criminal Revision Case stands dismissed. Consequently, connected miscellaneous petition is closed.

20. The order passed by the learned Judicial Magistrate No.I, Sivakasi in Crl.M.P.No.5378 of 2022 is confirmed. The learned Trial Court is directed to proceed with the complaint under Section 138 of the Negotiable Instruments Act, 1881, expeditiously, uninfluenced by any observations made in this order.

20.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

The Judicial Magistrate No.I,
Sivakasi.

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L.VICTORIA GOWRI, J.,

Sml

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