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IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

1. CRM-M-8223-2023 (O&M)

Ankit Tyagi @ Ankit		...Petitioner
	Versus	
Ramdas		...Respondent

2. CRM-M-8756-2023 (O&M)

Ankit Tyagi @ Ankit		...Petitioner
	Versus	
Ramdas		...Respondent

3. CRM-M-9094-2023 (O&M)

Ankit Tyagi @ Ankit		...Petitioner
	Versus	
Ramdas		...Respondent

4. CRM-M-8562-2023 (O&M)

Ankit Tyagi @ Ankit		...Petitioner
	Versus	
Ramdas		...Respondent

Reserved on : 23.07.2025
Pronounced on : 04.08.2025

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present:- Mr. Naveen Bawa, Advocate
for the petitioner in all four petitions.

Mr. Rakesh Kumar Lathwal, Advocate
for the respondent in all four petitions.

MANISHA BATRA, J.

1. This common order shall dispose of above mentioned four petitions as they are similar in nature and involve similar question of law and have been filed by the same petitioner against the same respondent. However, for the sake

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of convenience, the facts are being extracted from **CRM-M-8223-2023**.

2. Prayer in this petition, filed under Section 482 of Cr.P.C., is for quashing of complaint bearing NO. NACT/1990/2019, date 21.12.2019, titled as ***Ramdas vs. Ankit Tyagi***, filed under Section 138 of the Negotiable Instruments Act, 1881 (*for short 'N. I. Act'*) as well as for quashing the order dated 21.12.2019, passed by the Court of learned Judicial Magistrate First Class, Sonipat in the aforementioned complaint, thereby summoning the petitioner as accused to face trial therein.

3. Brief facts relevant for the purpose of disposal of the present petitions are that the aforementioned complaint has been filed by the respondent/complainant against the petitioner/accused on the allegations that he had given an amount of Rs. 2,50,00,000/- to the petitioner on 16.03.2012 as loan to meet out his urgent family needs. The petitioner had assured to repay the said amount by 31.01.2017. On representation made by the petitioner that he was using his firm account for personal use and wanted to receive some money in the account of firm also, the complainant had transferred an amount of Rs. 46 Lakhs through RTGS in the account of the firm of the petitioner and the remaining amount was given in cash in different installments during the period from 31.03.2012 to 19.06.2012. The details of these transactions have been mentioned in paragraph No. 2 of the complaint.

4. The complainant further alleged that since the petitioner did not repay the aforementioned amount by the stipulated time, he had approached him and then to discharge his legally enforceable liability, the petitioner had issued 05 cheques dated 14.12.2017 to 18.12.2017. When these cheques were presented before the banker of the respondent/complainant, the same were dishonoured.

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The respondent had contacted the petitioner, who assured him to pay the loan amount and swore an affidavit/receipt in favour of the respondent, thereby agreeing to repay the loan amount on 14.09.2019. At that time, he also gave 05 cheques bearing No. 208871 to 208875, drawn at Yes Bank, Branch Gannaur, Sonipat, to the respondent by way of security for repayment of the loan amount. These cheques were deposited by the respondent on 10.09.2019 when the petitioner had assured the complainant that there was sufficient balance in his bank account. These cheques were, however, dishonoured on 11.09.2019 with the remarks 'drawer signatures differ'. On request of the petitioner, those cheques were again presented on 27.09.2019 but were again dishonoured on 30.09.2019 with the same remarks. As the petitioner failed to pay the cheque amount, therefore, the respondent served legal notice on 14.10.2019 upon the petitioner. However, in vain, thereby compelling the respondent to file the aforementioned complaint.

5. The respondent then produced preliminary evidence before the learned trial Court and on considering the same, the learned trial Magistrate, vide order dated 21.12.2019, issued process against the petitioner for commission of offence punishable under Section 138 of the N. I. Act.

6. It is argued by learned counsel for the petitioner that the impugned complaint as well as the summoning order are liable to be set aside as the complaint(s) filed by the respondent was time barred and while passing the impugned order, the learned trial Court did not consider this fact. In fact, statutory legal notice was issued by the respondent on 14.10.2019 through registered post. The period of 15 days expired on 29.10.2019 and thereafter, the complaint was to be filed within 30 days i.e. till 29.11.2019 but it had been filed

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on 21.12.2019 i.e. after a delay of 22 days. It is submitted by learned counsel for the petitioner that this aspect had not been considered by learned trial Court at all. It is further submitted that an application for condonation of delay was filed by the respondent after filing of the complaint before the learned trial Court. The learned trial Court passed the impugned summoning order in a hurried manner without condoning the delay and since as on the date of passing of this order, the delay had not been condoned, therefore, the complaint as well as the summoning order are not sustainable in the eyes of law. With these broad submissions, it is argued that the petitions deserves to be allowed, the complaints and impugned summoning orders are liable to be set aside. To fortify his arguments, learned counsel for the petitioner has relied upon the observations made by the High Court of Patna in ***Amjad Ali Khan @ Guddu Khan vs. State of Bihar and others, 2022 (4) Crimes 218.***

7. *Per contra*, it is argued by learned counsel for the respondent that along with the complaint filed by the respondent, he had also filed an application seeking condonation of delay of 22 days in filing the complaint. However, the learned trial Court had not decided the same and had passed the impugned summoning order. It is argued that it was not on account of any lapse on the part of the respondent that the application seeking condonation of delay had not been decided. Once the summoning order had been passed, then the delay is assumed to have been condoned. It is further argued that there is a prima facie case on record to prove that the petitioner committed offence punishable under Section 138 of the N. I. Act. The trial Magistrate, at the stage of issuing process, cannot test the veracity of allegations nor for that matter can it proceed in the manner that a judge conducting a trial would, on the basis of the evidence collected

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during the course of the trial. Hence, it is urged that the petitions are liable to be dismissed.

8. This Court has heard rival submissions addressed by both the sides, besides carefully scrutinizing the material placed on record.

9. At the outset, it may be mentioned that as per Section 138 of the N. I. Act, in case of dishonour of a cheque, the payee or the holder, in due course of the cheque, has to make a demand for payment of the amount of money of the cheque by giving a notice in writing to the drawer of the cheque, within 30 days of receipt of information by him from the bank regarding return of the cheque as unpaid. As per proviso (c) to Section 138 of the N. I. Act, the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice, only then the complaint would be maintainable.

10. In the instant case, the legal notice was issued against the petitioner on 14.10.2019 and the period of 15 days to make payment of the amount of cheque from the date of issuance of legal notice expired on 29.10.2019. As per Section 142 of the N. I. Act, the complaint was required to be made within one month of the date on which the cause of action had arisen as per proviso (c) to Section 138 of the N. I. Act. The said period expired on 29.10.2019, whereas the complaint had been filed by the respondent on 21.12.2019. As such, the same was certainly filed after delay of 22 days. As per proviso (b) to Section 142 of the N. I. Act, the Court concerned is competent to take cognizance of a complaint after the prescribed period of one month of the date on which the cause of action arises under proviso (c) to Section 138, if the complainant satisfies the Court that he had sufficient cause for not making a complaint within

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such period. Here, the case of the respondent/complainant is that along with the complaint, he had filed an application seeking condonation of the delay justifying the reasons for such delay but the Court concerned had not taken the same into consideration and had passed the impugned summoning order. It is the stand taken by the respondent that since it was not on account of any lapse on the part of the respondent that the delay was not formally condoned by the Court concerned, therefore, the complaint as well as the summoning order are not liable to be quashed.

11. On a perusal of the record, it is revealed that though a plea has been taken by the petitioner that the application for condonation of delay had been filed by the respondent after filing of the complaint, however, on perusal of Annexures R-1 to R-4, which are certified copies of the complaint, affidavit and application for condonation of delay, respectively, filed by the respondent, it is revealed that the application seeking condonation of delay had been filed along with the complaint itself as on 21.12.2019 and not at any subsequent point of time. Even an affidavit, sworn by the respondent, and accompanying application for condonation of delay had been annexed with the application, Therefore, it cannot be stated that the application for condonation of delay had not been filed by the complainant along with the complaint.

12. In view of the discussion as made above, now the question that arises for consideration is as to whether the complaint as well as the summoning order are liable to be quashed due to the reason that the application for condonation of delay in filing the complaint had not been decided by the learned trial Court and straightaway process had been issued after considering the preliminary evidence. In this context, it may be mentioned that the legislature,

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by virtue of proviso (c) to Section 142 of the N. I. Act, has conferred expressed power on the trial Magistrate to take cognizance even in respect of a belated complaint if he is satisfied that the complainant had sufficient cause for belated presentation. In ***Pawan Kumar Ralli vs. Maninder Singh Narula, (2014) 15 SCC 245***, the High Court concerned had quashed the similar proceedings on the ground of limitation. The Hon'ble Supreme Court had observed that with a view to obviate the difficulties from a part of the complainant, the Parliament has inserted the proviso to clause (b) of Section 142 of the N. I. Act in the year 2002 which conferred jurisdiction on the learned Magistrate to condone the delay. The Supreme Court has also observed that a litigant should not be deprived of the remedy provided in the legislature and a genuine litigant should be allowed to pursue his case against a defaulter by overcoming the technical difficulty of limitation. In ***Aditi Singh vs. Amarendra Dhari Singh, (2025) ibclaw.in 677 HC***, the High Court of Delhi was dealing with a similar case, wherein no application for condonation of delay had been filed and summons were issued. It was observed that when there was a remedy provided for in law for condonation of delay and if sufficient reasons are shown to condone the same, then the complainant, in such cases, ought to be given a chance to justify such delay. The matter was as such remanded to the trial Court to examine the reasons for seeking condonation of delay.

13. The present case is at better footing, wherein an application for condonation of delay had been filed by the respondent/complainant but it was on account of oversight of the trial Magistrate that no order was passed on the same and process was ordered to be issued. In the considered opinion of this Court, the respondent cannot be made to suffer because of that reason. As such, the

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present petitions are partly allowed. The impugned summoning orders, passed in all the four complaints, which are subject matter of these petitions, respectively, are hereby set aside. The matter is remanded to the learned trial Court with a direction to decide the application(s) for condonation of delay in accordance with law after giving opportunity to both the parties and thereafter pass a fresh order for summoning the petitioner as accused if a case is made out for the same.

14. Let a copy of this order be placed on the files of the connected cases.

04.08.2025
Waseem Ansari

(MANISHA BATRA)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No