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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO.381 OF 2026

KISHORI GOVIND NAIK ... PETITIONER

Versus

VPK URBAN CO-OPERATIVE CREDIT SOCIETY LTD REP BY ITS RECOVERY OFFICER AND ANR ... RESPONDENTS

Mr. Tanmai Gawas, Advocate for the Petitioner.
Mr. Jatin Ramaiya, Advocate and Mr Omkar Thakur, Advocate for Respondent No.1.
Mr. Preetam Talaulikar, Additional Public Prosecutor with Ms Sara Desai, Advocate for Respondent No. 2.

CORAM:- AMIT S. JAMSANDEKAR, J.

DATED :- 5th October, 2026

P.C.

1. Heard Mr. Gawas, the learned Counsel for the Petitioner.

2. The present Petition challenges the order dated 30.7.2026 passed by the learned Additional District Judge, whereby the application filed by the Petitioner seeking condonation of delay in payment of costs, as directed by the learned Judge vide order dated 29.06.2026, came to be dismissed.

3. The Petitioner has challenged the judgment and order passed by the learned Judicial Magistrate First Class in proceedings under Section 138 of the Negotiable Instruments Act. Admittedly, the appeal was filed by the Petitioner with a delay of 138 days. The

Petitioner, therefore, filed an application seeking condonation of delay before the learned Judge. The learned Judge was pleased to allow the said application, subject to payment of costs, as directed vide order dated 29.06.2026.

2. It is an admitted position that the Petitioner did not pay the costs as directed within a period of 15 days from the date of the order dated 29.06.2026. It is submitted on behalf of the Petitioner that, owing to her age and occupation, she could not make payment of the costs within the stipulated period.

3. Learned counsel for the Petitioner submits that, having regard to the peculiar facts and circumstances of the present case, the Petitioner may be shown some indulgence. It is submitted that, if the Petition is not allowed, the Petitioner would be deprived of a statutory right. Learned counsel further submits that the Petitioner has a good case on merits and, therefore, the order passed by the learned Judge be quashed and set aside and the Petitioner be permitted to pay the costs as directed by the learned Judge vide order dated 29.06.2026 and the appeal be heard on merits.

4. Mr. Ramaiya, the learned counsel appearing for the Respondent, has opposed the Petition on various grounds, including the ground that no indulgence ought to be shown to the Petitioner, particularly in view of the approach adopted by the Petitioner, which has resulted in multiplicity of proceedings.

5. I have considered the submissions advanced by the learned counsel for the respective parties and have perused the Petition.

6. I do not find any arbitrariness or perversity in the orders passed by the Learned Judge. The orders are passed judiciously.

7. However, I am inclined to accept the submission made on behalf of the Petitioner having regard to the peculiar facts and circumstances of the present case. In particular, given the Petitioner's age and occupation, some indulgence ought to be shown to her. I also find substance in the submission that mere failure to pay the costs within the period stipulated by the order dated 29.06.2026, in the facts of the present case, ought not to deprive the Petitioner of a substantive right arising under a statutory provision.

8. In view of the aforesaid, the Petition is allowed in terms of prayer clause (a).

9. The Petitioner shall pay the costs as directed by the learned Sessions Judge vide order dated 29.06.2026 within a period of two days from today.

10. It is made clear that, in the event the Petitioner fails to pay the said costs within a period of two days from today, no further indulgence shall be shown to the Petitioner.

11. The Petition stands disposed of accordingly.

12. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

AMIT S. JAMSANDEKAR, J.

Signed by: VINITA VIKAS NAIK
Designation: Private Secretary
Date: 06/10/2026 14:08:00