



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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CRM-M No.71506 of 2025 (O&M)

Date of Decision :20.01.2026

Surender Yadav**.....Petitioner****Versus****Naresh Kumar****..... Respondent****CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH**

Present : Mr. Vimal Kumar Gupta, Advocate for the petitioner.

SURYA PARTAP SINGH, J. (Oral):

The petitioner who has been summoned as an accused in a complaint filed by the respondent in the Court of learned Judicial Magistrate Ist Class Gurugram, hereinafter being referred to as 'trial Court', has challenged the summoning order dated 11.11.2025, hereinafter being referred to as impugned order. The above mentioned summoning order has been passed in a compliant case file by the respondent for the commission of offence punishable under Section 138 of Negotiable Instruments Act 1881, hereinafter being referred to as 'N.I. Act'.

2. Heard.

3. It has been contended on behalf of the petitioner that the learned trial Court without looking into the facts that the complaint filed by the respondent was barred by law of limitation has passed the summoning order i.e. impugned order, and that while passing the above mentioned order the



settled principles of law have been ignored. It has been highlighted by learned counsel for the petitioner that the complaint in itself shows that on the dis-honour of cheque the notice, demanding payment of requisite money, was issued on 05.06.2025 and that as per statutory provisions the limitation period for filing of complaint with regard to above mentioned notice was 19.07.2025 but the instant complaint was filed by the respondent on 23.07.2025. According to learned counsel for the petitioner, the respondent at the time of filing of complaint had not mentioned any ground justifying the delay in filing of complaint, but subsequent thereto an application was moved and the same was allowed by the learned trial Court by virtue of the impugned order, and thereafter the summoning order was passed by condoning the delay.

4. While claiming that the period of limitation has to be reckoned from the date of issuing notice, the learned counsel for the petitioner has contended that an error of judgment has been committed by the learned trial Court while taking cognizance of the complaint and passing the summoning order. As per learned counsel for the petitioner, there is need for indulgence and interference of extraordinary jurisdiction of this Court. Hence, the prayer of quashing of complaint vis-a-vis summoning order.

5. The record has been perused carefully.

6. A perusal of record shows that once the cheque issued by petitioner was dis-honoured, the respondent issued notice demanding money on 05.06.2025 and thereafter he filed the complaint. The learned trial Court while considering the above mentioned fact condoned the delay by observing



that “the aforesaid proviso quite clearly spell out that the delay can be condoned if the sufficient cause is shown for not filing the complaint within the time limit. The proof of sufficient cause is condition for precedent for exercise of the extraordinary jurisdiction vested in the court. What counts is not the length of the delay but the sufficiency of the cause and shortness of the delay is one of the circumstances to be taken into account in using the discretion. In O.P.Kathpalia Vs. Lakhmir Singh 1984 (4) SCC 66 a Bench of three Judges had held that if the refusal to condone the delay results in grave miscarriage of justice it would be a ground to condone the delay. Delay was accordingly condoned. Section 138 of Negotiable Instrument Act has been enacted to prevent mis-use of the banking institution and the promote the business transactions through negotiable instruments. Originally i.e. before the Negotiable Instruments (Amendment of Miscellaneous Provisions) Act, 2002 came into force, there was no provision for condoning the delay in filing the complaint. However, keeping in view the complex nature of modern business practice, in which many a times businessman, traders etc. have to depend upon and have faith on others and for that reason and for other reason there may be delay in preferring the complaint. Therefore, the Parliament in this wisdom, perhaps thought to provide the savings clause in shape of proviso to Section 142 of the Act whereby the court has been given discretion to take cognizance of the offence even after lapse of 30 days of the cause of action if it is satisfied that the complainant had sufficient cause for not making the complaint within the prescribed period. Like Section 5 of the Limitation Act, the proviso to Clause(b) of Section 142 of the Act is a



benevolent provision and it has be be construed liberally. In the present case there is a delay of 4 days. Applicant/complainant has submitted that the delay occurred due to the reason that the accused assured the complainant that he will make the payment on 23.07.2017. Believing upon the words of the accused the complainant could not file the present complaint within limitation. The complainant has shown sufficient cause for not filing of the complaint on time. Keeping in view the contents elaborated in the said application and also in view of the submission made, the delay of 4 days in filing the present complaint is condoned. Application for condonation of delay in hand is accordingly allowed.”

7. A bar perusal of the above mentioned reasoning given by the learned trial Court make it abundantly clear that the law has been appreciated by the learned trial Court in a right perspective and the spirit of the legislation has been rightly appreciated. It is also reflected from the contents of above mentioned order that the learned trial Court was very well aware of the objectives of relevant legislation and while upholding the above mentioned spirit and following the relevant law a right conclusion has been drawn by the learned trial Court by condoning the delay in filing the complaint.

8. It is also relevant to mention here that the learned counsel for the petitioner during the course of argument has contended that the period of limitation has to be reckoned from the date of notice when it was issued, i.e. with effect from 05.06.2025, but in my opinion the above mentioned contention is not in accordance with the true spirit of the legislation and also



against the contents of the statutory provisions. The abovesaid period has to be reckoned from the date of receipt of notice by the petitioner and not from the date of issue.

9. As a sequel to above mentioned observation, it is hereby held that there is no illegality or infirmity in the discretion exercised by the learned trial Court while condoning the delay and passing the summoning order. Thus, there is no scope for indulgence and interference in the impugned order.

10. In view of above, the present petition is devoid of merit deserves dismissal. The same is hereby dismissed accordingly.

(SURYA PARTAP SINGH)
JUDGE

20.01.2026
Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No