



\$~5

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% ***Date of Decision: 7th February, 2026***

+ CRL.M.C. 6302/2023 & CRL.M.A. 23602/2023
SANJEEV KUMAR,

.....Petitioner

Through: Mr. Vishaal Sharma, Advocate.

versus

STATE NCT OF DELHI & ANR.

.....Respondents

Through: Mr. Sunil Kumar Gautam, APP for
the State.

Mr. Manav Batra, Mr. Varun Tyagi,
Ms. Bharti Bhatt, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Respondent No.2 i.e. Mr. Vikas Bansal filed a complaint against Mr. Sanjeev Kumar i.e. petitioner herein, for offence under Section 138 of *Negotiable Instrument Act, 1881* (NI Act).
2. Such complaint was registered as Complaint Case No. 11993/2018.
3. In the complaint itself, the complainant had, categorically mentioned that there was a delay of about 44 days in filing such complaint, for which a separate application, seeking condonation, had been filed.
4. Indeed, an application seeking condonation of delay also accompanied the complaint.
5. However, when the matter was taken up by the learned Trial Court on 22.06.2019, out of sheer inadvertence, the accused was summoned, while



also holding that the complaint was within the period of limitation. There was no mention of there being any delay in filing the complaint, much less about its condonation.

6. After around four years thereafter, i.e. on 04.07.2023, the learned Trial Court was apprised that said application was pending adjudication. Learned Trial Court keeping in mind the objective behind *proviso* appended to Section 142(b) of NI Act and observing that the technical difficulty should not render the claim of genuine litigant futile, has condoned the delay, *vide* order dated 04.07.2023.

7. Such order is under challenge.

8. The petitioner herein i.e. accused, had been summoned on 22.06.2019 and as already observed above, the summoning order proceeds on erroneous assumption that the complaint was within limitation. The complainant had, in no uncertain words, specified that there was a delay of 44 days, and despite that, the learned Trial Court chose to proceed with the matter as if it was filed within time. Indubitably, since the appropriate stage to have condoned the delay was before passing the summoning order, the condonation of delay, post-cognizance and post-summoning of the accused, does not seem to be desirable and justifiable.

9. Be that as it may, when asked, learned counsel for both the parties submitted that they would have no objection if the learned Trial Court takes up the matter from the stage as it was existing prior to order dated 22.06.2019, and considers the matter afresh and pass appropriate further order in accordance with law.

10. Apparently, the summoning order is also not sustainable as it has been passed in a mechanical manner.



11. In view of the above peculiar facts and circumstances of the case, and with the consent of learned counsel for both the parties, the present petition is disposed of while setting aside orders dated 22.06.2019 and 04.07.2023 passed by learned Trial Court.

12. Learned Trial Court shall take up the matter from the stage it was existing as prior to passing of order dated 22.06.2019, and after hearing learned counsel for complainant and taking note of the pre-summoning evidence and averments made in the complaint and the abovesaid application, it would pass appropriate order in accordance with law.

13. Since the matter has already got delayed considerably, the learned Trial Court would also make best endeavour to decide the abovesaid matter as expeditiously as possible. Since the next date of hearing before the learned Trial Court is stated to be 25.05.2026, complainant would be at liberty to file an application seeking preponement of the date.

14. It is, however, clarified that this Court has not made any observation with respect to the merits of the main complaint, or for that matter with respect to the application seeking condonation of delay, and, therefore, it will be entirely upto the learned Trial Court to decide the same in accordance with law, without being influenced by any observation appearing in the present order.

15. The present petition stands disposed of in aforesaid terms.

16. The pending application also stands disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

FEBRUARY 7, 2026/ss/sa