



NIA S. 138 requires notice and application for delay condonation if a complaint is late. Failure caused erroneous acquittal, leading to a retrial.

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Negotiable Instruments Act, 1881 S. 138 - Delay in [filing](#) complaint - if the original complaint is filed after the expiry of the statutory period, the accused must be given notice along with a copy of the application for condonation of delay before the court can consider condoning the delay - To avail the benefit of the proviso to Section 142(b) of the NI Act, the complainant is required to file an application for condonation of delay, explaining the [reasons](#) for the delay - Complaint was filed 10 days after the statutory period of 30 days, without any application for condonation of delay, and without a specific order condoning the delay - Caused prejudice to both the complainant and the accused, leading to an erroneous acquittal - Set aside the impugned [judgment](#) of acquittal and remitted the matter to the court of the Chief Judicial Magistrate to proceed afresh.

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