

Serial No. 50
Regular Cause List.

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CRM(M) 763/2023 CrIM(1749/2023) CrIM(1750/2023)
c/w i)CRM(M) 764/2023 CrIM(1751/2023).

TARIQ AHMAD DAR.

...Petitioner(s)

Through: Mr. Mubashir Gatoo, Advocate.

VERSUS

MOHAMMAD DAWOOD SOFI.

Through: Mr. Syed Sajad Geelani, Advocate.

...Respondent(s)

CORAM:
HON’BLE MR. JUSTICE SANJAY DHAR, JUDGE.

ORDER
30-12-2024

CRM (M) No. 763/2023.

01. The Petitioner is aggrieved of order dated 10.10.2023 passed by the learned Chief Judicial Magistrate, Shopian, whereby, after recording the compromise between the petitioner and the respondent in a complaint filed under Section 138 of the Negotiable Instruments Act, the learned Magistrate has observed that the compromise on part of the petitioner/ accused with the respondent/ complainant amounts to admission and, accordingly, the petitioner/ accused has been convicted under Section 138 of the Negotiable Instruments Act and sentenced to two years imprisonment. The learned trial Magistrate has further directed that the sentence of the petitioner/ accused shall remain suspended for a period of three months and that in case of default on part of the petitioner/ accused, he shall serve the sentence and pay double the cheque amount and litigation charges of Rs. 1.00 lac.

02. Learned counsel for the petitioner has submitted that the compromise was arrived at between the petitioner and the respondent during the pendency of the complaint, whereby the petitioner has agreed to pay the cheque amount of

Rs. 30.00 lacs to the respondent/ complainant by or before 31.01.2024 and in case of his failure, the petitioner/ accused had undertaken to pay double the cheque amount and the complainant was given liberty to execute the award and the compromise for recovery of whole amount in one go, along with the interest.

03. Learned counsel for the petitioner further submits that the petitioner would be paying the cheque amount of Rs. 30.00 lacs within a period of four months from today. Learned counsel for the respondents has submitted that in case same is done, the respondent would not execute the award during these four months.

04. Be listed again on 05.05.2025 to allow the petitioner to have sufficient time to pay the aforesaid amount to the respondent.

05. Interim direction(s), if any, shall continue to remain in operation till next date of hearing before the Bench.

CRM (M) No. 764/2023.

01. The Petitioner is aggrieved of order dated 10.10.2023 passed by the learned Chief Judicial Magistrate, Shopian, whereby, after recording the compromise between the petitioner and the respondent in a complaint filed under Section 138 of the Negotiable Instruments Act, the learned Magistrate has observed that the compromise on part of the petitioner/ accused with the respondent/ complainant amounts to admission and, accordingly, the petitioner/ accused has been convicted under Section 138 of the Negotiable Instruments Act and sentenced to two years imprisonment. The learned trial Magistrate has further directed that the sentence of the petitioner/ accused shall remain suspended for a period of three months and that in case of default on part of the petitioner/ accused, he shall serve the sentence and pay double the cheque amount and litigation charges of Rs. 1.00 lac.

02. Learned counsel for the petitioner has submitted that the compromise was arrived at between the petitioner and the respondent during the pendency of the complaint, whereby the petitioner has agreed to pay the cheque amount of Rs. 21.00 lacs to the respondent/ complainant by or before 31.01.2024 and in case

of his failure, the petitioner/ accused had undertaken to pay double the cheque amount and the complainant was given liberty to execute the award and the compromise for recovery of whole amount in one go, along with the interest.

03. Learned counsel for the petitioner further submits that the petitioner would be paying the cheque amount of Rs. 21.00 lacs within a period of four months from today. Learned counsel for the respondents has submitted that in case same is done, the respondent would not execute the award during these four months.

04. List as above along with CRM (M) No. 763/2023 to allow the petitioner to have sufficient time to pay the aforesaid amount to the respondent.

05. Interim direction(s), if any, shall continue to remain in operation till next date of hearing before the Bench.

(Sanjay Dhar)
Judge

SRINAGAR
30-12-2024
Showkat Khan

