



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 9TH DAY OF JUNE, 2026
BEFORE
THE HON'BLE MR. JUSTICE RAVI V HOSMANI
WRIT PETITION NO. 1847 OF 2022 (GM-RES)

BETWEEN:

SRI DHANARAJA BABU G
S/O SRI GANESH P.,
AGED ABOUT 48 YEARS,
R/AT NO.25/1 NO.14
SHANKARA PARK ROAD
SHANKARAPURAM
BANGALORE - 560 004.

...PETITIONER

(BY SRI PRAJWAL K. ARADHYA, ADVOCATE FOR
SRI S KALYAN BASAVARAJ, ADVOCATE)

AND:

SRI MADHUKAR ANGUR
S/O LATE GUDDAPPA ANGUR
AGED ABOUT 60 YEARS,
CHANCELLOR
ALLIANCE UNIVERSITY
CHANDAPURA-ANEKAL MAIN ROAD,
BENGALURU URBAN DISTRICT-560 081.
ALSO R/A NO.1128, 21ST 'A' CROSS,
HSR LAYOUT, 14TH MAIN,
BENGALURU - 560 087.

...RESPONDENT

[BY SRI PAVANA CHANDRA SHETTY H., (NOC) ADVOCATE]

THIS W.P. IS FILED UNDER ARTICLES 226 & 227 OF THE
CONSTITUTION OF INDIA, PRAYING TO CALL FOR THE

Digitally signed
by ANUSHA V
Location: High
Court of
Karnataka



RECORDS IN CRIMINAL APPEAL NO.366/2020 QUASH THE IMPUGNED ORDER DTD.14.1.2022 PASSED IN CRIMINAL APPEAL NO.366/2020 (CCH-66) ON THE FILE OF THE LXV ADDL CITY CIVIL AND SESSIONS JUDGE BENGALURU PRODUCED AT ANNEXURE-A DECLINING TO HEAR THE APPLICATION UNDER SECTION 148(3) OF THE NEGOTIABLE INSTRUMENT ACT AND THEREAFTER POSTING THE ABOVE MATTER TO BE HEARD ON MERITS.

THIS PETITION, COMING ON FOR HEARING ON I.A., THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

ORAL ORDER

Challenging order dated 14.01.2022 passed by LXV Additional City Civil and Sessions Judge, Bengaluru Rural, (CCH 66) in Criminal Appeal no.366/2020 on an application filed by petitioner under Section 148(3) of Negotiable Instruments Act **(NI Act)**, this writ petition is filed.

2. Sri Prajwal K Aradhya, learned counsel for petitioner submitted that alleging commission of offence under Section 138 of NI Act on account of dishonour of cheque for a sum of ₹ 4,75,00,000/- petitioner had filed a private complaint, later registered as CC no.28233/2017 on file of 12th A.C.M.M,



Bangalore, against respondent-accused. Same ended in conviction as per Annexure-B imposing sentence of fine of Rs.4.75 crores to be paid by respondent within 30 days.

3. Challenging conviction, respondent preferred Criminal Appeal no.366/2020. In appeal an interim order was passed by appellate Court under Section 148(3) on 28.02.2020, directing respondent - accused to deposit 20% of fine amount apart from execution of a personal bond for ₹ 10,00,000/-. Seeking for release of deposited amount, petitioner herein filed application under Section 148(3) of N.I. Act. On said application, appellate Court passed impugned order, deferring consideration on ground that it may delay disposal of appeal. Aggrieved thereby, present petition is filed.

4. This Court on 10.02.2022 had granted interim order staying further proceedings in appeal which has subsisted till today.

4. Counsel for petitioner submitted that on deposit of interim amount, successful party would be entitled for withdrawal. Therefore, deferring consideration of application



amounted to rejection and was not in accordance with law and therefore sought for allowing petition. In support of his submission, he relied upon decision of Hon'ble Supreme Court in case of **Surinder Singh Deswal and others v. Virender Gandhi and another** reported in **(2019) 11 SCC 341**, to contend that word 'may' in Section 148 has to be read as 'shall' and application under Section 148(3) was required to be allowed. It was submitted though in decision cited, Hon'ble Court was considering Section 148(1), same analogy would apply to Section 148(3) and submitted that in order to give effect to Section 148(3) of NI Act, petition requires to be allowed.

5. On other hand Sri Pavana Chandra Shetty H, learned counsel for respondent opposed petition. It was submitted that above petition would be untenable on ground that there was no order rejecting application and in fact application is still pending consideration and only on account of interim order obtained by petitioner herein. Appeal had not progressed. It was submitted that interpretation in **Surinder Singh's** case (supra) would not apply to an application for release and respondent-accused was



ready to cooperate for early disposal of main appeal itself by undertaking not to take adjournments and sought for disposal of petition.

6. In reply, learned counsel for petitioner also submitted that there would be no question of petitioner not cooperating for early disposal of appeal. However, application requires to be considered if necessary by imposing certain conditions.

7. Heard learned counsel and perused order impugned as well as material on record.

8. Though petitioner is aggrieved by non-consideration of an application under Section 148(3) of NI Act, as rightly pointed out application has not been rejected and is pending consideration. At same time, perusal of ratio laid down by Hon'ble Supreme Court in Surinder Singh's case, as well as in **Rakesh Ranjan Shrivastava v. State of Jharkhand and another** reported in **(2024) 4 SCC 419** would indeed indicate that word 'may' has to be read as 'shall', however, by exercising discretion in a manner known to law. In light of observations by Hon'ble Supreme Court in **Rakesh Ranjan Shrivastava's** case (supra), application for withdrawal cannot



be allowed for asking. Same has to be backed by consideration and reasons and imposition of appropriate conditions.

9. Further taking note of fact that in an appeal there does not appear to be any need for recording of evidence and matter requires only hearing, neither reason assigned about disposal of appeal being delayed nor situation prevailing at time of impugned order being current, it is found appropriate to dispose of petition by directing trial Court to expedite consideration of application and appeal in accordance with law as expeditiously as possible by denying unnecessary adjournments to parties, in light of undertaking given to co-operate for early conclusion. While considering ratio laid down by Hon'ble Supreme Court in decisions referred to above shall be adverted to. Direction for expedite disposal would be regardless of whether trial Court considers application upfront or otherwise.

**Sd/-
(RAVI V HOSMANI)
JUDGE**

YKL
List No.: 1 Sl No.: 7