



CNR: KAHC010256552024

NC: 2026:KHC:49697
CRL.P No. 4015 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF SEPTEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAJESH RAI K

CRIMINAL PETITION NO. 4015 OF 2024

BETWEEN:

SMT ANITA SAKURU
AGED ABOUT 54 YEARS
W/O RAGHUVeer SAKURU,
R/AT FLAT NO 113
JUBILEE CYBER GROUND
MADHOPUR, HYDERABAD

PRESENTLY R/AT NO 77
SAI DURGA ENCLAVE
AGRAHARA VILLAGE
KOGILU CROSS, YELAHANKA
BENGALURU - 560 097

...PETITIONER

(BY SRI. VIJAYA KRISHNA BHAT M, ADVOCATE)

AND:

SRI NARAYANA RAO ATLURI
AGED AMJOR
S/O MALLIKARJUNA RAO ATLURI
R/AT FLAT NO A - 403
ADITYA HILL TOP, JUBILEE HILLS
HYDERABAD- 500 033

...RESPONDENT

(NOTICE SERVED BUT UNREPRESENTED)

Digitally signed
by PANKAJA S
Location: HIGH
COURT OF
KARNATAKA



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THIS CRL.P IS FILED U/S 482 OF CR.PC PRAYING TO SET ASIDE THE ORDER DATED 05.04.2024 PASSED BY THE XVIII ADDL. CMM, BENGALURU CITY IN C.C.NO.18575/2017 THEREBY ALLOWING I.A. FILED BY THE RESPONDENT AS PER ANNEXURE-D AND CONSEQUENTLY DISMISS THE SAID APPLICATION.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE RAJESH RAI K

ORAL ORDER

This petition is filed under Section 482 of the Cr.P.C., praying to set aside the order dated 05.04.2024 passed by the XVIII Additional Chief Metropolitan Magistrate, Bengaluru, in C.C.No.18575/2017 (for short, 'the Trial Court'), whereby the learned Magistrate allowed the application filed by the respondent and directed release of the amount deposited by him pursuant to the order dated 03.09.2022 passed in Crl.A.No.1032/2022 by the LIX Additional City Civil and Sessions Judge, Bengaluru (CCH-60) (hereinafter referred to as 'the First Appellate Court').



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2. The brief facts of the case are that the petitioner filed a private complaint against the respondent for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short, 'the NI Act') before the Trial Court in PCR No.8424/2017, which was subsequently registered as C.C.No.18575/2017. It is alleged in the complaint that the respondent had borrowed a sum of Rs.2,50,00,000/- and, towards repayment of the said amount, had issued eight cheques dated 30.04.2017. The said cheques were presented by the complainant at the instance of the respondent-accused. However, the cheques came to be dishonoured with the endorsement 'funds insufficient'. Thereafter, the complainant caused a legal notice to be issued to the respondent-accused and, subsequently, filed the private complaint before the Trial Court.

3. To prove the said complaint, the complainant examined himself as PW.1 and marked 22 documents as Exs.P1 to P22. However, the respondent also examined himself as DW.1 and marked 3 documents as Ex.D1 to D3.



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4. Upon appreciation of the oral and documentary evidence on record, the Trial Court convicted the respondent-accused for the offence punishable under Section 138 of the NI Act and sentenced him to pay a fine of Rs.2,55,10,000/-, and in default of payment of the said fine, to undergo simple imprisonment for a period of six months.

5. Aggrieved by the said judgment, the accused preferred Crl.A.No.1032/2022 before the First Appellate Court. Upon re-appreciation of the oral and documentary evidence, the First Appellate Court allowed the appeal, subject to payment of costs of Rs.50,000/-, set aside the judgment of conviction passed by the Trial Court and remitted the matter to the Trial Court for fresh consideration from the stage of recording the statement of the accused under Section 313 of the Cr.P.C. The First Appellate Court further directed both the parties to appear before the Trial Court on 06.06.2023.

6. Accordingly, both the parties appeared before the Trial Court in C.C.No.18575/2017. On the said date, the learned counsel appearing for the accused filed an application under Section 311 of the Cr.P.C., seeking recall of PW.1 and



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permission to further cross-examine him. The accused also filed another application seeking release of 20% of the amount deposited by him pursuant to the order dated 03.09.2022 passed by the First Appellate Court.

7. Learned counsel appearing for the complainant filed his objections to the application filed under Section 311 of the Cr.P.C. However, insofar as the other application filed by the accused seeking release of the amount deposited by him is concerned, the Trial Court, without affording an opportunity to the complainant to file his objections or to advance his submissions, proceeded to allow the said application and directed release of the deposited amount in favour of the accused on the very same day. Aggrieved by the said order passed by the Trial Court, the complainant has preferred this petition.

8. Heard the learned counsel for the petitioner. Despite service of notice to the respondent, he remained absent.



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9. I have my anxious consideration to the submission made by the learned counsel for the petitioner and also perused the entire materials on record.

10. As could be gathered from records, after the respondent-accused was convicted in C.C.No.18575/2017, he preferred an appeal before the First Appellate Court in CrI.A.No.1032/2022. While admitting the appeal, the First Appellate Court suspended the sentence subject to the accused depositing 20% of the fine amount imposed by the Trial Court. Accordingly, the respondent-accused deposited 20% of the fine amount before the Trial Court. Thereafter, the First Appellate Court allowed the appeal and remitted the matter to the Trial Court with a direction to consider the case afresh from the stage of recording the statement of the accused under Section 313 of the Cr.P.C.

11. After remand of the matter, the respondent-accused filed an application seeking release of the amount so deposited. However, the Trial Court, without affording an opportunity to the complainant to file objections or contest the said application, proceeded to allow the application and



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directed release of the deposited amount in favour of the accused on the very same day. In my considered opinion, the said course adopted by the Trial Court cannot be sustained. When the matter had been remitted to the Trial Court for fresh consideration from the stage of recording the statement under Section 313 of the Cr.P.C., there was no justification for the Trial Court to order release of the amount deposited pursuant to the order of the First Appellate Court, particularly without affording an opportunity to the complainant to have his say in the matter. Moreover, when the proceedings were at the fag end, the order directing release of the amount deposited by the accused in his favour was wholly unwarranted and calls for interference by this Court.

12. In view of the foregoing discussion, this Court is of the considered view that the order passed by the Trial Court is not sustainable in law and is liable to be set aside. Accordingly, the petition is allowed.

13. Consequently, the order dated 05.04.2024 passed by the Trial Court in C.C.No.18575/2017 is hereby set aside.



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14. The Trial Court is directed to dispose of the matter expeditiously, preferably at the earliest, and in any event within an outer limit of six months from the date of receipt of a copy of this order.

**SD/-
(RAJESH RAI K)
JUDGE**

CR/List No.: 1 Sl No.: 23