BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2025

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THE HONOURABLE MR.JUSTICE SHAMIM AHMED

CRL RC(MD) No.1432 of 2025
CRL.MP(MD) Nos.16884 and 16888 of 2025

S.Kamaraja, S/o.Sundararajan
No.3/34A, Melapalapatty, Sengapalli Village
Paramathivelur, Mohanur Taluk
Namakkal District Revision Petitioner/Accused

Vs

Mohanraj, S/o.Ponnusamy, Melachinthalvadi
Krishnarayapuram, Karur District Respondent/Complainant

Prayer: This Criminal Revision Petition is filed under Sections 438 and 442 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, to call for the records, relating to the order, dated 21.04.2023, passed in Crl.MP.No.662 of 2023 in Crl.A.No.61 of 2023, by the Principal Sessions Court, Karur and to set aside the same.

For Petitioner : Mr.P.Krishnasamy

ORDER

1. Since this Criminal Revision Case is taken up for final disposal, at the admission stage itself, notice to the Respondent is dispensed with.

2. This Criminal Revision Case has been filed, against the order, dated

21.04.2023, passed in Crl.MP.No.662 of 2023 in Crl.A.No.61 of 2023, by the Principal Sessions Court, Karur.

3. The facts of the case in a nutshell, led to filing of this Criminal Revision Petition and necessary for disposal of the same, are as follows:-

(a) The case is one under Section 138 of the Negotiable Instruments Act. The Revision Petitioner is the accused and the Respondent is the Complainant. By the judgement of conviction and sentence, dated 21.02.2023, in CC.No.55 of 2016, filed by the Respondent/Complainant against the Revision Petitioner/Accused for recovery of a sum of Rs.5,00,000/- being the cheque amount, before the Judicial Magistrate No.I, Kulithalai, Karur, the Revision Petitioner/Accused was convicted and sentenced for the offence under Section 138 of the Negotiable Instruments Act, to undergo one year Simple Imprisonment and to pay a compensation of Rs. 5,00,000/-, being the cheque amount, within one month, in default, to undergo Simple Imprisonment for one month and the compensation amount shall carry interest at the rate of 6% p.a.

(b) As against the same, the Revision Petitioner had preferred an appeal in Crl.A.No.61 of 2023, before the Principal Sessions Court, Karur, along with a petition in Crl.MP.No.662 of 2023, for grant of suspension of sentence and bail. Considering the facts and circumstances of the case, the lower appellate court, by the impugned order, dated 21.04.2023, had passed the following order, granting suspension of sentence and bail, with the following conditions:-

> "The Petitioner shall deposit 25% of the compensation amount to the credit of CC.No.55 of 2016, on the file of the learned Judicial Magistrate No.1,Kulithalai, on or before 05.05.2023 and on such deposit the sentence shall be suspended, failing which, the Petition shall stands dismissed automatically. The above said condition is imposed by exercising powers under Section 148 of the Negotiable Instruments Act.
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> ii) The bonds executed by the Petitioner and his sureties before the Trial Court will be considered good and sufficient for the appeal also.
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> ii) The Petitioner should appear and sign before the learned Judicial Magistrate No.1, Kulithalai once in a month on every 1st working day at 10.30 a.m. till the disposal of the criminal appeal."

(c) As against the same, this Criminal Revision Case has been filed by the Revision Petitioner/Accused, contending that since he was an agricultural coolie on daily wages basis and he has no other source of income, he is unable to deposit 25% of the compensation amount, as ordered by the lower appellate court, while granting suspension of sentence and bail.

4. This Court heard Mr.P.Krishnasamy, the learned counsel for the Revision Petitioner/ accused and considered his submissions and also perused the entire materials placed on record.

5. According to the Revision Petitioner/Accused, he was an agricultural coolie on daily wages basis and he has no other source of income and hence, he is unable to deposit 25% of the compensation amount, as ordered by the lower appellate court and hence, he may be exempted from depositing the said amount. The learned counsel for the Revision Petitioner/Accused has also raised several other grounds against the judgement of conviction and sentence of the Trial Court.

6. It is seen from the records that the Revision Petitioner/ accused was convicted and sentenced by the Trial Court, for the offence under Section 138 of the Negotiable Instruments Act to undergo one year Simple Imprisonment and to pay a compensation of Rs.5,00,000/- being the cheque amount, in default to undergo one month Simple Imprisonment and in failure to pay the said compensation amount within one month, the compensation amount shall carry interest at the rate of 6% p.a.

7. It is seen that the impugned judgement of conviction and sentence of the Trial Court was passed on 21.02.2023. However, without paying the

compensation amount, as ordered by the Trial Court, the Revision Petitioner had preferred the appeal before the lower appellate court, along with the Petition for grant of suspension of sentence and bail. The impugned order, granting suspension of sentence and bail was passed on 21.04.2023, with the above said conditions. However, this Criminal Revision Case has been filed with an inordinate delay of 704 days, which was, however, condoned by the order of the Coordinate Bench of this Court, dated 26.08.2025 on payment of cost.

8. Section 148 of the Negotiable Instruments Act reads as under:-

> "**148. Power to Appellate Court to order payment pending appeal against conviction:-** (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), in an appeal by the drawer against conviction under Section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent of the fine or compensation awarded by the trial Court:
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> Provided that the amount payable under this sub section shall be in addition to any interim compensation paid by the appellant under Section 143 A.
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> (2) The amount referred to in sub-section (1) shall be deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant.
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> (3) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal:

> Provided that if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the day of the order or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant."

9. Section 148 of the Negotiable Instruments Act contemplates that when an appeal is filed by the drawer of cheque under Section 138, the Appellate Court may order such sum which shall be minimum of 20% of the fine or compensation awarded by the trial Court. This is in addition to whatever interim compensation the complainant would be ordered to be entitled to under Section 143A. The said deposit is to be made within 60 days from the date of the order or within a further period not exceeding 30 days as may be directed by the Court on sufficient cause being shown by the appellant and the appellate Court after receipt of such deposit may direct release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal. If the accused is acquitted, the complainant will have to repay the amount so released in terms of sub-section (3) of Section 148 of the Act and that shall be refunded within 60 days from the date of the order or within such period not exceeding 30 days as may be directed by the Court by

sufficient cause being shown by the complainant.

10.In this case, by the impugned order, while granting suspension of sentence and bail, the lower appellate court had directed the Revision Petitioner/Accused to deposit 25% of the compensation amount, as ordered by the Trial Court, within one month among other conditions.

11.In this case, the issue is as to whether the lower appellate court is justified in directing the Revision Petitioner/Accused to deposit 25% of the compensation amount in the appeal against conviction under Section 138 of the Negotiable Instruments Act.

12.Similar issue came up before the Honourable Supreme Court in **AIR 2019 SC 2956 (Surinder Singh Deswal Vs. Virendar Gandhi), wherein** the orders passed by the High Court of Punjab and Haryana at Chandigarh, by which, the High Court had dismissed the respective Revision Applications and had confirmed the order passed by the first appellate court (Additional Sessions Judge, Panchkula), directing the appellants herein (original appellants/original accused) to deposit 25% of the amount of compensation, in view of the provisions of Amended Act No.20 of 2018 in Section 148 of the Negotiable Instruments Act, 1881, were challenged in the appeals before the Honourable Supreme

Court. The Honourable Supreme Court was pleased to observe as under:-

"7.1 The short question which is posed for consideration before this Court is, whether the first appellate court is justified in directing the appellants – original accused who have been convicted for the offence under Section 138 of the N.I. Act to deposit 25% of the amount of compensation/fine imposed by the learned trial Court, pending appeals challenging the order of conviction and sentence and while suspending the sentence under Section 389 of the Cr.P.C., considering Section 148 of the N.I. Act as amended?

7.2 While considering the aforesaid issue/question, the Statement of Objects and Reasons of the amendment in Section 148 of the N.I. Act, as amended by way of Amendment Act No. 20/2018 and Section 148 of the N.I. Act as amended, are required to be referred to and considered, which read as under:

"The Negotiable Instruments Act, 1881 (the Act) was enacted to define and amend the law relating to Promissory Notes, Bills of Exchange and Cheques. The said Act has been amended from time to time so as to provide, inter alia, speedy disposal of cases relating to the offence of dishonour of cheques. However, the Central Government has been receiving several representations from the public including trading community relating to pendency of cheque dishonour cases. This is because of delay tactics of unscrupulous drawers of dishonoured cheques due to easy filing of appeals and obtaining stay on proceedings. As a result of this, injustice is caused to the payee of a dishonoured cheque who has to spend considerable time and resources in court proceedings to realize the value of the cheque. Such delays compromise the sanctity of cheque transactions.

2. It is proposed to amend the said Act with a view to address the issue of undue delay in final resolution of cheque dishonour cases so as to provide relief to payees of dishonoured cheques *and to discourage frivolous and unnecessary litigation which would save time and money. The proposed amendments will strengthen the credibility of cheques and help trade and commerce in general by allowing lending institutions, including banks, to continue to extend financing to the productive sectors of the economy.*

3. It is, therefore, proposed to introduce the Negotiable Instruments (Amendment) Bill, 2017 to provide, inter alia, for the following, namely:—

(i) to insert a new section 143A in the said Act to provide that the Court trying an offence under section 138, may order the drawer of the cheque to pay interim compensation to the complainant, in a summary trial or a summons case, where he pleads not guilty to the accusation made in the complaint; and in any other case, upon framing of charge. The interim compensation so payable shall be such sum not exceeding twenty per cent of the amount of the cheque; and

(ii) to insert a new section 148 in the said Act so as to provide that in an appeal by the drawer against conviction under Section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent of the fine or compensation awarded by the trial court.

4. The Bill seeks to achieve the above objectives."

'148. Power to Appellate Court to order payment pending appeal against conviction.

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), in an appeal by the drawer against conviction under section 138, the Appellate Court may order the appellant to deposit such sum which shall be a minimum of twenty per cent of the fine or compensation awarded by the trial Court:

Provided that the amount payable under this subsection shall *be in addition to any interim compensation paid by the appellant under section 143A.*

(2) The amount referred to in subsection (1) shall be deposited within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the appellant.

(3) The Appellate Court may direct the release of the amount deposited by the appellant to the complainant at any time during the pendency of the appeal:

Provided that if the appellant is acquitted, the Court shall direct the complainant to repay to the appellant the amount so released, with interest at the bank rate as published by the Reserve Bank of India, prevalent at the beginning of the relevant financial year, within sixty days from the date of the order, or within such further period not exceeding thirty days as may be directed by the Court on sufficient cause being shown by the complainant.''

8. It is the case on behalf of the appellants that as the criminal complaints against the appellants under Section 138 of the N.I. Act were lodged/filed before the amendment Act No. 20/2018 by which Section 148 of the N.I. Act came to be amended and therefore amended Section 148 of the N.I. Act shall not be made applicable. However, it is required to be noted that at the time when the appeals against the conviction of the appellants for the offence under Section 138 of the N.I. Act were preferred, Amendment Act No. 20/2018 amending Section 148 of the N.I. Act came into force w.e.f. 1.9.2018. Even, at the time when the appellants submitted application/s under Section 389 of the Cr.P.C. to suspend the sentence pending appeals challenging the conviction and sentence, amended Section 148 of the N.I. Act came into force and was brought on statute w.e.f. 1.9.2018.

Therefore, considering the object and purpose of amendment in Section 148 of the N.I. Act and while suspending the sentence in exercise of powers under Section 389 of the Cr.P.C., when *the first appellate court directed the appellants to deposit 25% of the amount of fine/compensation as imposed by the learned trial Court, the same can be said to be absolutely in consonance with the Statement of Objects and Reasons of amendment in Section 148 of the N.I. Act.*

8.1 Having observed and found that because of the delay tactics of unscrupulous drawers of dishonoured cheques due to easy filing of appeals and obtaining stay on proceedings, the object and purpose of the enactment of Section 138 of the N.I. Act was being frustrated, the Parliament has thought it fit to amend Section 148 of the N.I. Act, by which the first appellate Court, in an appeal challenging the order of conviction under Section 138 of the N.I. Act, is conferred with the power to direct the convicted accused – appellant to deposit such sum which shall be a minimum of 20% of the fine or compensation awarded by the trial Court. By the amendment in Section 148 of the N.I. Act, it cannot be said that any vested right of appeal of the accused – appellant has been taken away and/or affected. Therefore, submission on behalf of the appellants that amendment in Section 148 of the N.I. Act shall not be made applicable retrospectively and more particularly with respect to cases/complaints filed prior to 1.9.2018 shall not be applicable has no substance and cannot be accepted, as by amendment in Section 148 of the N.I. Act, no substantive right of appeal has been taken away and/or affected. Therefore the decisions of this Court in the cases of Garikapatti Veeraya (supra) and Videocon International Limited (supra), relied upon by the learned senior counsel appearing on behalf of the appellants shall not be applicable to the facts of the case on hand. Therefore, considering the Statement of Objects and Reasons of the amendment in Section 148 of the N.I. Act stated hereinabove, on purposive interpretation of Section 148 of the N.I. Act as amended, we are of the opinion that Section 148 of the N.I. Act as amended, shall be applicable in respect of the appeals against the order of conviction and sentence for the offence under Section 138 of the N.I. Act, even in a case where the criminal complaints for the offence under Section 138 of the N.I. Act were filed prior to amendment Act No. 20/2018 i.e.,

> *prior to 01.09.2018. If such a purposive interpretation is not adopted, in that case, the object and purpose of amendment in Section 148 of the N.I. Act would be frustrated. Therefore, as such, no error has been committed by the learned first appellate court directing the appellants to deposit 25% of the amount of fine/compensation as imposed by the learned trial Court considering Section 148 of the N.I. Act, as amended.*
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> *12. In view of the above and for the reasons stated above, we see no reason to interfere with the impugned common judgement and order passed by the High Court dismissing the revision application/s, confirming the order passed by the first appellate court directing the appellants to deposit 25% of the amount of fine/compensation pending appeals.*
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> *The instant appeals are accordingly dismissed with the aforesaid observations and appellants are now directed to deposit the amount directed by the first appellate court within extended period of four weeks from today."*

13.In this case, the Revision Petitioner, without complying with any one of the conditions imposed in the impugned order of the lower appellate court, while granting suspension of sentence and bail, the Revision Petitioner/Accused has approached this Court, belatedly after more than two years. The learned counsel for the Revision Petitioner/ Accused is not able to say anything as to whether any one of the said conditions was complied with by the Revision Petitioner/Accused. Hence, it is to be held that the Revision Petitioner has no respect to the orders of the Court.

14.Delaying tactics of unscrupulous drawers of dishonoured cheques, due to easy filing of appeals and obtaining stay on proceedings would cause injustice to the payee of a dishonoured cheque, who has to spend considerable time and resources in court proceedings to realize the value of the cheque. In this case, as stated above, this Court finds that the Revision Petitioner/Accused is adopting delaying tactics. This Court also finds that there is no valid reason assigned by the Revision Petitioner/Accused for exempting him from paying the 25% of the compensation amount, as ordered by the lower appellate court, by the impugned order.

15.Section 148 of the Negotiable Instruments Act contemplates that the appellate court may order the Appellant in the appeal against conviction under Section 138 of the Negotiable Instruments Act to deposit a minimum 20% of the fine or compensation, as awarded by the Trial Court. Such deposit should be not less than 20% and it can be more than it, as the appellate court deems it appropriate to order. In this case, considering the object and purpose of the provisions of Section 148 of the Negotiable Instruments Act, while suspending the sentence in exercise of powers under Section 430 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, the lower appellate court had directed the

Revision Petitioner/Accused to deposit 25% of the compensation amount, as imposed by the trial Court.

16.In the light of the above said decision of the Honourable Supreme Court and considering the object and purpose of the amendment in Section 148 of the Negotiable Instruments Act and the facts and circumstances of the case, this Court is of the view that the impugned order, directing the Revision Petitioner/Accused to deposit 25% of the compensation amount, as ordered by the Trial Court, within one month, among other conditions, can be said to be absolutely in consonance with the Statement of objects and Reasons of amendment in Section 148 of the Negotiable Instruments Act.

17.Thus, this Court is of the view that the lower appellate court had rightly passed the impugned order, imposing the conditions and that there is no infirmity or illegality in the impugned order of the lower appellate court, which warrants interference by this Court. Accordingly, this Criminal Revision Case is liable to be dismissed, as the conditions have not been complied with by the Revision Petitioner/Accused.

18.In the result, this Criminal Revision Case is **dismissed.** There is no order as to costs. Consequently, the connected Criminal Miscellaneous Petitions are also **dismissed**. The file is consigned to record.

19.The Principal Sessions Court, Karur is directed to proceed in the pending criminal appeal, expeditiously, in accordance with law.

20. Let a copy of this order be sent by the Registry to the concerned Trial/Appellate Court, within three weeks from today, for necessary compliance and information, to be kept in the file of the lower Appelalte Court record.

13.11.2025

Index:Yes/No
Web:Yes/No
Speaking/Non Speaking
Neutral Citation
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To

1. The Principal Sessions Court, Karur

2. The Judicial Magistrate No.1, Kulithalai, Karura

3. The Additional Public Prosecutor, Madurai Bench of the Madras High Court, Madurai.

SHAMIM AHMED J,.

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CRL RC(MD) NO. 1432 of 2025

13.11.2025