APHC010192582026

IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI **[3604]**
(Special Original Jurisdiction)

THURSDAY, THE 12th DAY OF NOVEMBER 2026

PRESENT

THE HONOURABLE SMT JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION NO: 2861/2026

Between:

1. SRI RAMA TRANSPORT CHERUKUPILLI, BEING REP., BY PROPR., GIRIGOPI S/O JAGAN MOHAN RAO AGED 35 YRS, R/O TELAGA STREET,SALUR VIZIANAGARAM DISTRICT
2. GIRI GOPI, S/O JAGAN MOHANA RO, AGED 35 YRS PROPR SRITRANSPORT, CHERUKUPILLLI VILLAGE, TELAGA STREET, SALUR,VIZIANAGARAM DISTRICT.

...PETITIONER/ACCUSED(S)

AND

1. THE STATE OF ANDHRA PRADESH, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT AT AMARAVATHI
2. SHRIRAM CITY UNION FINANCE LIMITED, REGD., UNDER THE COMPANIES ACT 1956 HAVING ITSREGISTERED OFFICE AT NO. 123, ANGAPPA NAICKEN STREET. CHENNAIBEING REP. BY TALADA SANKARA RAO S/O SANYASI, AGED 30YRS,SALUR BRANCH VIZIANAGARAM DISTRICT

...RESPONDENT/COMPLAINANT(S):

Petition under Section 437/438/439/482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition, the High CourtPleased to Quash the impugned Order passed in CRL MP NO. 52/2026 in CRL Appeal No. 15/2026 in C.C.No. 610/2014 dt 24-03-2026 on the file of II Additional District & Sessions Judge at Parvathipuram Vizianagaram District only to the extent of Deposit of 20%

of the Cheque Amount as per the Rulings of Apex Court as well as the High Courts by Allowing the Criminal Petition and pass

IA NO: 1 OF 2026

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition,the High Court may be pleased to Quash the impugned Order passed in CRL MP NO. 52/2026 in CRL Appeal No. 15/2026 in C.C.No. 610/2014 dt 24-03-2026 on the file of II Additional District & Sessions Judge at Parvathipuram Vizianagaram District only to the extent of Deposit of 20% of the Cheque Amount as per the Rulings of Apex Court as well as the High Courts by Allowing the Criminal Petitionand pass

IA NO: 2 OF 2026

Petition under Section 482 of Cr.P.C and 528 of BNSS praying that in the circumstances stated in the Memorandum of Grounds of Criminal Petition,the High Court may be pleased to Stay of the Operation of the Judgment passed in C.C.No.610/2024 dt. 22-12-2025 on the file of Judicial Magistrate of 1st Class at Salur pending disposal of the main Criminal Petition and pass

Counsel for the Petitioner/accused(S):

1. R SIVA SAI SWARUP

Counsel for the Respondent/complainant(S):

1. O UDAYA KUMAR
2. PUBLIC PROSECUTOR

The Court made the following:

THE HON'BLE SMT. JUSTICE SUNITHA GANDHAM

CRIMINAL PETITION No: 2861 OF 2026

ORDER:

This petition is filed by the petitioner/accused Nos.1 and 2 to quash the impugned order in Crl.M.P.No.52 of 2026 in Crl.A.No.15 of 2026 in C.C.No.610 of 2024 dated 24.03.2026 on the file the learned II Additional District & Sessions Judge, Parvathipuram, Vizianagaram District.

2. Case of the petitioners is thus:

That the petitioners are accused Nos.1 and 2 in C.C.No.610 of 2014 of the offence under Section 138 of the Negotiable Instruments Act (hereinafter referred to as 'the Act') and at the culmination of trial, the learned trial court convicted them *vide* judgment dated 22.12.2025. Feeling aggrieved by the said judgment of conviction, they preferred Crl.A.No.15 of 2026 along with Crl.M.P.No.52 of 2026 seeking suspension of sentence and while allowing the said petition, the appellate court imposed condition of payment of 20% of cheque amount and also to execute self bond for Rs.25,000/- each with two sureties for the like some of each to the satisfaction of the learned Judicial Magistrate of First Class, Salur. Further, without assigning any reasons, the appellate court imposed condition of payment of 20% of the cheque amount. Petitioners have no financial capacity to deposit 20% of the cheque amount and further, without following the principles laid down by the Hon'ble Apex Court in ***Jamboo Bhandari v. M.P. State Industrial Development Corporation LTD. & ORS***[1]**,** the appellate court imposed the said condition.

3. On the other hand, learned counsel for respondent No.2 submitted that the petitioners have not expressed their difficulty in paying 20% cheque amount before the appellate court and in exceptional cases only, deposit of

[1] 2023 LiveLaw (SC) 776

20% cheque amount has to be waived and supported the order passed by the appellate court.

4. On hearing both sides and upon perusing the material placed on record, the point that would arises for consideration is thus:

> **"Whether the petitioners established their case to give exemption in depositing 20% of cheque amount, to suspend the sentence *vide* judgment dated 22.12.2025?"**

5. As seen from the record, respondent No.2 filed complaint in C.C.No.610 of 2014 against the petitioners of the offence under Section 138 of the Act and at the culmination of trial, learned Judicial Magistrate of First Class, Salur convicted the petitioners *vide* judgment dated 22.12.2025 and to pay 1.5 times on cheque amount on or before 23.03.2026 with 6% per annum interest from the date of cheque till the date of the judgment, in case of default, accused No.2 is liable to undergo simple imprisonment for a period of 18 months. Feeling aggrieved by the said judgment of conviction, petitioners preferred appeal in Crl.A.No.15 of 2026 and also fled petition in Crl.M.P.No.52 of 2026 to suspend the sentence passed by the learned trial court and while allowing the said petition, the appellate court imposed condition stated *supra*.

6. Section 148 of the Act, as inserted by the Negotiable Instruments (Amendment) Act, 2018, empowers the appellate Court to direct the appellant-accused to deposit a minimum of 20% of the fine or compensation awarded by the trial Court, as a condition for suspension of sentence during the pendency of the appeal. The provision uses the expression *"may order the appellant to deposit such sum which shall be a minimum of twenty per cent"*, thereby conferring discretion upon the appellate Court, though subject to the statutory minimum prescribed. Intention of the legislature for insertion of Section 148 is to address the mischief of prolonged litigation in cheque dishonour cases and to ensure that the complainant is not deprived of the fruits during pendency of

appeal. The provision seeks to strike a balance between the statutory right of appeal available to the accused and the right of the complainant to expeditious and effective recovery of compensation. The amount so deposited may, subject to conditions, be released to the complainant during the pendency of the appeal, thereby reflecting the legislative object of providing timely interim relief and discouraging frivolous or dilatory appeals.

7. In this regard, it is apposite to refer to the judgment in ***Jamboo Bhandari*** (*supra*), Hon'ble Supreme Court held thus:

> "6. What is held by this Court is that a purposive interpretation should be made of Section 148 of the N.I. Act. Hence, normally, Appellate Court will be justified in imposing the condition of deposit as provided in Section 148. However, in a case where the Appellate Court is satisfied that the condition of deposit of 20% will be unjust or imposing such a condition will amount to deprivation of the right of appeal of the appellant, exception can be made for the reasons specifically recorded.
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> 7. Therefore, when Appellate Court considers the prayer under Section 389 of the Cr.P.C. of an accused who has been convicted for offence under Section 138 of the N.I. Act, it is always open for the Appellate Court to consider whether it is an exceptional case which warrants grant of suspension of sentence without imposing the condition of deposit of 20% of the fine/compensation amount. As stated earlier, if the Appellate Court comes to the conclusion that it is an exceptional case, the reasons for coming to the said conclusion must be recorded.
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> 8. The submission of the learned counsel appearing for the original complainant is that neither before the Sessions Court nor before the High Court, there was a plea made by the appellants that an exception may be made in these cases and the requirement of deposit or minimum 20% of the amount be dispensed with. He submits that if such a prayer was not made by the appellants, there were no reasons for the Courts to consider the said plea.
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> 9. We disagree with the above submission. When an accused applies under Section 389 of the Cr.P.C. for suspension of sentence, he normally applies for grant of relief of suspension of sentence without any condition. Therefore, when a blanket order is sought by the appellants, the Court has to consider whether the case falls in exception or not."

8. The convict bears the onus of demonstrating special, exceptional or compelling circumstances to persuade the appellate Court to waive or relax the statutory requirement of deposit under Section 148 of the Act. In the absence of such exceptional circumstances, the legislative mandate ordinarily

prevails. Considering the legislative intent behind the provision-namely, to expedite the recovery process and to mitigate the hardship caused to the complainant due to protracted appellate proceedings, it is both reasonable and in consonance with statutory purpose for the appellate Court to impose the condition of deposit when an appeal is preferred against a conviction under Section 138 of the Act. The provision was enacted to remedy the mischief of undue delay in cheque dishonour cases and to ensure that the successful complainant is not left remediless during the pendency of appeal. Such a requirement ensures that the complainant is not unjustly deprived of the compensation awarded by the trial Court, while at the same time preserving the accused's statutory right of appeal. It further acts as a deterrent against frivolous, vexatious or dilatory appeals preferred merely to stall execution of the sentence or compensation order. Under Section 148 of the Act, the direction to deposit a minimum of 20% of the compensation amount constitutes the general rule, and departure therefrom can only be justified upon the existence of exceptional circumstances duly demonstrated before the appellate Court. Thus, while the provision vests discretion in the appellate Court, such discretion is structured and guided by the statutory minimum prescribed therein.

9. The Hon'ble Supreme Court in ***Muskan Enterprises & Anr. Vs. The State of Punjab***[2], held thus:

> "xxxxxxxxxxxxxxxxx,. While there can be no gainsaying that normally the discretion of the Appellate Court should lean towards requiring a deposit to be made with the quantum of such deposit depending upon the factual situation in every individual case, more so because an order under challenge does not bear the mark of invalidity on its forehead, retention of the power of such court not to order any deposit in a given case (which in its view and for the recorded reasons is exceptional) and calling for exercise of the discretion to not order deposit, has to be conceded. xxxxxxxxxxxxxx."

[2] 2024 INSC 1046

10. The aforementioned principles in ***Jamboo Bhandari*** (supra) and ***Muskan Enterprises*** (supra) clearly postulates that the appellate Court possesses limited and structured discretion to waive or modify the condition of deposit under Section 148 of the Act, and that too, only upon the existence of exceptional and adequately demonstrated circumstances. Such circumstances must be established through credible, cogent and substantiated material placed on record by the appellant/convict. In the absence of such compelling material, it would be appropriate and in consonance with the statutory mandate for the appellate Court to impose the said condition. This approach ensures adherence to the legislative intent, discourages frivolous or dilatory appeals, and safeguards the legitimate interests of the complainant.

11. Coming to the facts of the case at hand, as per the version of the petitioners, they have been suffering from financial crisis and not in a position to pay 20% of the cheque amount as ordered by the appellate court. The impugned order does not reveal the arguments of the learned counsel for the petitioners that whether they had expressed their difficulties in paying 20% of the cheque amount. It is not the case of the petitioners that they have expressed their difficulty in paying 20% of cheque amount before the appellate court, before passing the order in Crl.M.P.52 of 2026 dated 24.03.2026 and as rightly argued by the learned counsel for respondent No.2, only in exceptional circumstances, that too, by assigning justifiable reasons, appellate court must waive the deposit of 20% of cheque amount.

12. It is needless to say that for imposing 20% of the cheque amount, reasons need not be assigned and at the same time, if the appellate court intends to waive the said condition, justifiable reasons must be assigned. Admittedly, petitioners should have been clarified before the appellate court about their financial condition. Since the impugned order also does not reveal arguments of the learned counsel for the petitioners in respect of the

grievance expressed by the petitioners before this court and as such, this court is of the considered view that the matter may be remitted to the appellate court so as to give opportunity to the petitioners to submit arguments in respect of deposit of 20% of cheque amount and to dispose of the petition afresh, to meet ends of justice.

13. **In the result**, this Criminal Petition is disposed of with a direction to the petitioners to appear before the learned II Additional District & Sessions Judge, Parvathipuram, Vizianagaram District within ten (10) days from the date of receipt of a copy of this order and on such appearance, the learned appellate court shall give opportunity to the petitioners as well as respondent No.2 to submit arguments, consider the aforementioned principles and dispose of the petition in Crl.M.P.No.52 of 2026 in Crl.A.15 of 2026 afresh, and till then, sentence imposed by the learned trial court is suspended.

As a sequel thereto, pending miscellaneous petitions, if any, shall stand closed.

SUNITHA GANDHAM, J

Dt:12.11.2026

Vns