HC-KAR

NC: 2026:KHC:60197
CRL.A No. 1661 of 2026

CNR: KAHC010675702026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE G BASAVARAJA

CRIMINAL APPEAL NO. 1661 OF 2026 (A-)

BETWEEN:

1. M/S S K ENTERPRISES,
   PROPRIETOR,
   SRI. Y.G. SHIVAKUMAR S/O.
   LATE. GURUSIDDAPPA,
   AGED ABOUT 42 YEARS,
   OFFICE AT NO.2, 3RD CROSS,
   SRS ROAD, PEENYA,
   BENGALURU-560 058.

...APPELLANT

(BY SRI. SHIVANANDA REDDY R V.,ADVOCATE)

AND:

Digitally signed by
LAKSHMINARAYAN N
Location: High Court
of Karnataka

1. SMT. CHANDRAKALA S
   W/O. SAVAND RAJU,
   AGED ABOUT 56 YEARS,

2. SRI. SAVAND RAJU,
   S/O. BHADRAIAH,
   AGED ABOUT 64 YEARS

3. MR. NISHANTH.S
   S/O. SAVAND RAJU,
   AGED ABOUT 35 YEARS,

   ALL ARE RESIDING AT
   NISHANTH NILAYA,
   BEHIND GOVT. MIDDLE SCHOOL,

MADANAYAKANAHALLI,
BENGALURU-562 123.

…RESPONDENTS

(BY SRI. ARIKESARI K K., ADVOCATE)

THIS CRL.A IS FILED U/S 378(4) CR.PC (FILED U/S 419(4) OF BNSS) PLEASED TO SET ASIDE THE JUDGMENT AND ORDER DATED 01.09.2026 OF ACQUITTAL PASSED BY THE APPELLATE COURT IN CRL.A NO.1330/2025 ON THE FILE OF THE LXVI ADDL.CITY CIVIL AND SESSIONS JUDGE, AT BENGALURU (CCH-67) AND CONFIRM THE CONVICTION ORDER PASSED BY THE TRIAL COURT AGAINST THE RESPONDENT NO.1/ACCUSED NO.1 FOR THE OFFENCES P/U/S 138 OF NI ACT AND AWARD THE COMPENSATION TO DOUBLE THE CHEQUE AMOUNT AND ALSO INTEREST AS PER LAW AND ETC.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE G BASAVARAJA

ORAL JUDGMENT

1. The complainant/appellant has preferred this appeal against the judgment passed by the LXVI Addl. City Civil and Sessions Judge, Bengaluru, in Crl. Appeal No.1330/2025 dated 01.09.2026.

2. The brief facts leading to this appeal are that the present appellant, who is the complainant before the trial Court, had filed a complaint under Section 200 of Cr.P.C for the offence punishable under Section 138 of NI

Act. After taking cognizance case was registered in CC No.17354/2022. The accused appeared before the trial Court and filed joint memo. On the basis of joint memo, the trial Court has convicted accused No.1 for the offence punishable under Section 138 of Negotiable Instruments Act, 1881 and sentenced to pay fine of Rs.14,00,000/- in terms of joint memo. Thereafter, the accused has challenged the order passed by the trial Court in Crl. A No.1330/2025. The Appellate Court has allowed the appeal and set aside the judgment of conviction and sentence passed by the trial Court in CC No.17354/2022 dated 29.05.2023 passed by XIX Addl. C.M.M., Bengaluru and case was remanded to the trial Court with a direction to dispose of the matter afresh in accordance with law subject to payment of cost of Rs.10,000/-. Being aggrieved by this judgment of Appellate Court, the complainant has preferred this appeal.

3. I have Heard the arguments on both sides.

4. Though learned counsel for the appellant has reiterated the grounds urged in the Memorandum of Appeal, learned counsel fairly submits that this Court can confirm the judgment of the Appellate Court with a direction to dispose of the matter within 3 months and he also be permitted to receive 20% of the amount deposited by the accused before the trial Court. Further, he has submitted his arguments that the appellant has filed IA.II/2023 under Section 148(3) of NI Act read with 528 of BNSS, 2023 and sought to direct the trial Court to release the amount of Rs.2,80,000/- deposited in CC No.17354/2022 on the file of XIX Addl.Chief Metropolitan Magistrate, Bengaluru.

5. As against this, learned counsel for the respondent would oppose to release the amount as the accused is acquitted by the Appellate Court.

6. I have examined the materials placed before this Court.

7. On perusal of the judgment passed by the Appellate Court, the Appellate Court has rightly observed in para No.21 that the trial Court has failed to consider that the object of Section 138 of Negotiable Instruments Act is compensatory but not punitive. Further, it is observed that the trial Court has failed to exercise jurisdiction vested under Section 147 of the NI Act by not permitting compounding despite a joint compromise memo, rendering the order of conviction legally unsustainable. I do not find any legal or factual error in the observation made by the Appellate Court. Considering the facts and circumstances of the case, I proceed to pass the following:

ORDER

i. The appeal is disposed of.

ii. Invoking the power under Section 148(3) of the Negotiable Instruments Act, 1881,

IA.II/2026 filed under Section 148(3) of NI Act read with 528 of BNSS, 2023 is allowed.

iii. The trial Court is directed to disburse the amount of Rs.2,80,000/- in favour of the complainant with accrued interest if any, with a condition to execute an indemnity bond by the complainant so as to re-deposit the amount in the event of acquittal of the accused.

iv. Both parties are directed to appear before the trial Court on 23.11.2026.

v. The trial Court is directed to dispose of the case within 3 months from 23.11.2026.

Registry is directed to communicate this order to the trial Court forthwith.

Pending IAs, if any, stand disposed of.

Sd/-
(G BASAVARAJA)
JUDGE

KBM., List No.: 1 Sl No.: 14