



CRL.P No. 1189 of 2023
C/W CRL.P No. 1151 of 2023
CRL.P No. 1153 of 2023
CRL.P No. 1158 of 2023
CRL.P No. 1311 of 2023
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...RESPONDENT

(BY SRI. MUNISWAMY GOWDA, ADVOCATE)

THIS CRL.P. IS FILED U/S.482 OF CR.P.C. PRAYING TO SET ASIDE THE ORDER DATED 21.12.2022 PASSED BY THE LXXIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, MAYO HALL UNIT, BENGALURU IN CRL.A.NO.25140/2022 ON APPLICATION FILED BY THE PETITIONER U/S.148(3) OF N.I. ACT CONSEQUENTLY ALLOW THE APPLICATION DIRECTING THE TRIAL COURT TO RELEASE THE AMOUNT.

THESE PETITIONS, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. All these cases are arising out of the common facts and law and same parties. Therefore, the same are taken together for common disposal to avoid the repetition.
2. These petitions are filed by the petitioners-complainants under Section 482 of Cr.P.C for quashing the order of rejection of the application filed by the petitioners - complainants under Section 148(3) of the Negotiable



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Instruments Act (for short 'NI Act') in Criminal Appeal numbers as mentioned below by the Additional City Civil and Sessions Judge, Mayohall Unit, Bengaluru.

CrI.P.No.1189/2023	CrI.A.No.25135/2022
CrI.P.No.1151/2023	CrI.A.No.25139/2022
CrI.P.No.1153/2023	CrI.A.No.25138/2022
CrI.P.No.1158/2023	CrI.A.No.25136/2022
CrI.P.No.1311/2023	CrI.A.No.25134/2022
CrI.P.No.1350/2023	CrI.A.No.25132/2022
CrI.P.No.1346/2023	CrI.A.No.25137/2022
CrI.P.No.1356/2023	CrI.A.No.25140/2022
CrI.P.No.1355/2023	CrI.A.No.25133/2022

3. Heard the arguments of the learned counsel for the petitioners.

4. The case of the petitioners is that the petitioners are the complainants before the learned Magistrate. They have filed a complaint under Section 138 of the NI Act r/w Section 200 Cr.P.C against the respondent and the respondent is found guilty and convicted by the learned Magistrate for the offences punishable under Section 138 of the NI Act.



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5. Being aggrieved by the judgment of conviction and sentence passed by the Trial Court, the same accused person in all the cases has filed the appeal before the First Appellate Court i.e., before the Sessions Judge in Criminal appeal numbers stated above and also filed the applications under Section 389 of Cr.P.C for suspending the sentence.

6. The First Appellate Court by allowing the application under Section 389 of Cr.P.C, suspended the sentence passed by the learned Magistrate with a condition to deposit 20% of the fine amount as interim compensation payable within 60 days from the date of its order. Accordingly the accused said to have deposited 20% of the fine amount before the Trial Court.

7. Subsequently, the petitioners being the complainants in all these cases filed an application under Section 148(3) of NI Act for releasing the amount of interim compensation



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which came to be rejected by the First Appellate Court vide order dated 21.12.2022 which is under challenge.

8. Learned counsel for the petitioners has contended that as per the amended Section 143(A) of the NI Act, the complainants are entitled upto 20% of the cheque amount as interim compensation. After recording the plea, the accused was convicted. It is also mandatory on the part of the First Appellate Court to order for depositing upto 20% of the fine amount as interim compensation. The learned counsel submits that the application rejected by the First Appellate Court is not correct. Even if the accused succeeds in the appeals that amount shall be refunded by the complainants within 30 days along with interest. Such being the case, rejection of the application is not correct. Hence, prays for setting aside the order under challenge.



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9. Having heard the arguments of the learned counsel for the petitioners and the respondent, especially the impugned order passed by the First Appellate Court, which reveals that the First Appellate Court held that releasing of the amount would not only cause hardship to the accused but also leads to the multiplicity of litigations. In my considered opinion, the order passed by the First Appellate Court is not correct, as it is settled position of law under Sections 143(A) and 148(3) of NI Act, it is mandatory on the part of the Trial Court as well as the First Appellate Court to impose interim compensation payable by the accused persons while challenging the case and judgment of sentence in the appeals.

10. Even on perusal of Section 148 of the Act, a proviso is also there that this fine amount imposed by the First Appellate Court is also in addition to the interim compensation paid by the appellant under Section 143(A)



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of the NI Act and there is time limit also prescribed by the Legislature to deposit the said amount within 60 days and another 30 days, if any delay is condoned if sufficient cause shown and Sub Section (3) of Section 148 clearly reveals that the Appellate Court may direct to release the amount deposited by the appellant to the complainant at any time during the pendency of the appeals.

11. However, the proviso also states that if the accused succeed in the appeal, there shall be an order of refund of the said amount with interest prescribed by the R.B.I at the relevant time of the final order.

12. Such being the case, rejection of the application by the First Appellate Court is not correct and against the law. Therefore, the order under challenge is liable to be set-aside. Accordingly, I proceed to pass the following;



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ORDER

(i) All the petitions are ***allowed***.

(ii) The impugned order passed by the First Appellate Court in the above appeals are hereby set-aside.

(iii) The applications filed by the appellants are allowed.

(iv) 20% of the amount in deposit is ordered to be released to the petitioners - complainants with due identification, with a condition that they shall refund the amount within 60 days from the date of the order or plus 30 days, as per the proviso to Section 148(3) of the NI Act, if the accused is acquitted by the Appellate Court.

Sd/-
JUDGE

GH
List No.: 1 SI No.: 21