HC-KAR

NC: 2026:KHC:63285
CRL.P No. 15162 of 2026

CNR: KAHC010681572026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

CRIMINAL PETITION NO.15162 OF 2026
(482(Cr.PC) / 528(BNSS))

BETWEEN:

1. SHRI SATYA NARAYAN TULYSAN,
SON OF LATE GANESH LAL TULYSAN,
AGED ABOUT 78 YEARS, DIRECTOR,
SCOPE VINCOM INDUSTRIES PRIVATE LIMITED,
SY. NO. 442, JIGANI VILLAGE AND HOBLI
ANEKAL TALUK, BENGALURU – 562 106
AND ALSO AT NO.5A, ROBINSON STREET,
OLKATA - 700 017, WEST BENGAL.

2. SHRI. UPEN TULSYAN,
SON OF SATYA NARAYAN TULYSAN,
AGED ABOUT 47 YEARS, DIRECTOR,
SCOPE VINCOM INDUSTRIES PRIVATE LIMITED,
SY. NO. 442, JIGANI VILLAGE AND HOBLI,
ANEKAL TALUK, BENGALURU – 562 106
AND ALSO AT NO.5A, ROBINSON STREET,
KOLKATA - 700 017, WEST BENGAL.

Digitally signed by RAKESH S HARLAR
Location: High Court of Karnataka, Dharwad Bench

3. SHRI. BIJAY CHAUDHARY,
SON OF LATE B. K. CHOUDHURY,
AGED ABOUT 39 YEARS,
AUTHORIZED SIGNATORY,
SCOPE VINCOM INDUSTRIES PRIVATE LIMITED,
SY. NO. 442, JIGANI VILLAGE AND HOBLI,
ANEKAL TALUK, BENGALURU - 562 106.

...PETITIONERS

(BY SRI. AKSHAY KUMAR JAIN V., ADVOCATE)

AND:

M/S KRISHNA ENTERPRISES,
REPRESENTED BY ITS PROPRIETOR
SRI. SITARAM SULTANIA,

CNR: KAHC010681572026

NO.9/1-1/, (OLD NO.9/2)
POTTERS COLONY, NEW BAMBOO BAZAR,
BENGALURU - 560 002.

…RESPONDENT

(RESPONDENT SERVED)

THIS CRL.P IS FILED U/S 528 OF THE BHARATIYA NAGARIK SURAKSHA SANHITA, 2023 PRAYING TO SET ASIDE THE ORDER DATED 06.08.2026 PASSED BEFORE THE LEARNED IV ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, (CCH-21) MAYO HALL UNIT BENGALURU IN CRL.A NO.25388/2025 (ANNEXURE-A)

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

CORAM: HON'BLE MR. JUSTICE M.NAGAPRASANNA

ORAL ORDER

1. The petitioner is before the Court calling in question an order of the concerned Court dated 06.08.2026, by which the concerned Court suspends the sentence subject to deposit of 20% of the amount, which according to the learned counsel appearing for the petitioner is contrary to the judgment of the Apex Court in the case of **JAMBOO BHANDARI vs. MADHYA PRADESH STATE INDUSTRIAL DEVELOPMENT CORPORATION LIMITED AND OTHERS**[1].

2. The parties to the lists were before this Court in Criminal Petition No. 344 of 2026. Therefore, narration of the issue all over again would not be necessary except

[1] 2023 SCC OnLine SC 1144

paraphrasing the earlier order to the subject order. The order reads as follows:

> "Petitioners are before this Court calling in question an order dated 10.11.2025 by which the sentence of the petitioners are suspended on a condition that they would deposit 20% of the fine amount and executed a bail bond thereon.
>
> 2. Heard Sri.Manmohan P.N, learned counsel appearing for the petitioners and have perused the material on record.
>
> 3. The petitioners are the accused, the respondent is the complainant. The petitioners and the complainant have a transaction. The transaction goes wrong and the complainant approaches the concerned Court invoking Section 200 of the Code of Criminal Procedure for offence punishable under Section 138 of the Negotiable Instruments Act. The petitionersaccused gets convicted of the said offence. The issue in the lis is not with regard to the merit of the matter i.e., the conviction of the petitioners. While filing an appeal against the order of conviction, the petitioners file application seeking suspension of sentence. The said suspension is ordered by the following order:
>
> "……
>
> of Small of Small Causes, Mayohall Unit, Bengaluru in C.C. No.52971/2017 dated 10/09/2025 directing the appellants/accused persons to pay a fine of Rs. 1,43,40,924/- is stayed for a period of 6 months, subject to the following:-
>
> **CONDITIONS**
>
> 1. Appellants/accused persons shall deposit 20% of the fine amount in the trial court within 60 days from this day.
>
> 2. Immediately after depositing 20% of the fine amount the appellants/accused persons shall appear before the trial court and execute bail bond in a sum of Rs.1,00,000/- each with a surety of likesum.

> Intimate the Order to the Learned v Addl.Small Causes Judge & XXIV ACJM, Court of Small Causes, Mayohall Unit, Bengaluru.
>
> Issue notice of appeal memo to the respondent by: 16-12-25
>
> Sd/-
> 10/11/25
> C/C IVA.C.C. & S.J., Bengaluru."

The petitioners aggrieved by the said condition of 20% of deposit of the fine amount, is at the doors of this Court in the subject petition.

4. Learned counsel Sri.P.N.Manhoman appearing for the petitioners would vehemently contend that the law as laid down by the Apex Court, is completely given a go-by in directing the payment of 20% of the fine amount, while granting suspension of sentence. Learned counsel submits that the order must have been reasoned as to why 20% of the fine amount is a must in the case at hand. Learned counsel submits that the matter requires reconsideration at the hands of the concerned Court.

5. In the light of the issue being one of the suspension of sentence on certain conditions, no notice need be issued to the applicant. The admitted facts are that the petitioners get convicted of the offence under Section 138 of the Negotiable Instruments Act and the order of conviction is sought to be stayed by the order quoted herein above. The Apex Court considering an identical circumstance in the case of **JAMBOO BHANDARI vs. MADHYA PRADESH STATE INDUSTRIAL DEVELOPMENT CORPORATION LIMITED AND OTHERS**, has held as follows:

5. Para 8 of the decision of this Court in Surinder Singh Deswal [Surinder Singh Deswal v. Virender Gandhi, (2019) 11 SCC 341 : (2019) 3 SCC (Cri) 461 : (2019) 3 SCC (Civ) 765] reads thus : (SCC p. 350)

> "8. Now so far as the submission on behalf of the appellants that even considering the language used in Section 148 NI Act as amended, the appellate court "may" order the appellant to deposit such sum which shall be a minimum of 20% of the fine or compensation

awarded by the trial court and the word used is not "shall" and therefore the discretion is vested with the first appellate court to direct the appellant-accused to deposit such sum, and the appellate court has construed it as mandatory, which according to the learned Senior Advocate for the appellants would be contrary to the provisions of Section 148 NI Act as amended is concerned, considering the amended Section 148 NI Act as a whole to be read with the Statement of Objects and Reasons of the amending Section 148 NI Act, though it is true that in the amended Section 148 NI Act, the word used is "may", it is generally to be construed as a "rule" or "shall" and not to direct to deposit by the appellate court is an exception for which special reasons are to be assigned. Therefore amended Section 148 NI Act confers power upon the appellate court to pass an order pending appeal to direct the appellant-accused to deposit the sum which shall not be less than 20% of the fine or compensation either on an application filed by the original complainant or even on the application filed by the appellant-accused under Section 389CrPC to suspend the sentence. The aforesaid is required to be construed considering the fact that as per the amended Section 148 NI Act, a minimum of 20% of the fine or compensation awarded by the trial court is directed to be deposited and that such amount is to be deposited within a period of 60 days from the date of the order, or within such further period not exceeding 30 days as may be directed by the appellate court for sufficient cause shown by the appellant. Therefore, if amended Section 148 NI Act is purposively interpreted in such a manner it would serve the Objects and Reasons of not only amendment in Section 148 NI Act, but also Section 138 NI Act. The Negotiable Instruments Act has been amended from time to time so as to provide, inter alia, speedy disposal of cases relating to the offence of the dishonour of cheques. So as to see that due to delay tactics by the unscrupulous drawers of the dishonoured cheques due to easy filing of

> the appeals and obtaining stay in the proceedings, an injustice was caused to the payee of a dishonoured cheque who has to spend considerable time and resources in the court proceedings to realise the value of the cheque and having observed that such delay has compromised the sanctity of the cheque transactions, Parliament has thought it fit to amend Section 148 NI Act. Therefore, such a purposive interpretation would be in furtherance of the Objects and Reasons of the amendment in Section 148 NI Act and also Section 138 NI Act."

6. What is held by this Court is that a purposive interpretation should be made of Section 148 NI Act. Hence, normally, the 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.

7. Therefore, when the appellate court considers the prayer under Section 389 Cr.P.C. of an accused who has been convicted for offence under Section 138 NI 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.

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.

9. We disagree with the above submission. When an accused applies under Section 389CrPC 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."

(Empha
sis supplied)

The Apex Court holds that the concerned Court must apply its mind as to why 20% of the amount is necessary to be paid in the given case while suspending the sentence. If the law as laid down by the Apex Court is pitted against the order passed by the concerned Court, it would run foul of the same. Therefore, the petition deserves to succeed for a remand to the hands of the concerned Court to follow the law and pass necessary orders, again in accordance with law.

6. For the aforesaid reasons, the following:

ORDER

[I] Criminal Petition is allowed-in-part.

[II] Order dated 10.11.2025 in Crl.A.No.25388/2025 passed before learned IV Addl City Civil and Sessions Judge, Bengaluru, is quashed.

[III] The matter is remitted back to the hands of the concerned Court to answer the application of suspension of sentence bearing in mind the observations made in the course of the order, particularly, the law as laid down by the Apex Court in **JAMBOO BHANDARI vs. MADHYA PRADESH STATE INDUSTRIAL DEVELOPMENT CORPORATION LIMITED AND OTHERS** supra.

> [IV] In the light of the order of suspension being granted to the petitioners, the same shall continue till further orders are passed at the hands of the concerned Court.**"**

3. The matter was remitted back to the hands of the concerned Court to answer the application of suspension of sentence strictly in consonance with the judgment of the Apex Court in the case of **JAMBHOO BANDARI** supra.

4. The concerned Court has now passed the following Order:

> **"**8. It is also not in dispute that earlier an order was passed in this appeal suspending the sentence subject to conditions. The said order was challenged before the Hon'ble High Court of Karnataka in Criminal Petition No.344/2026. The Hon'ble High Court, while disposing of the said petition, has remitted the matter back for fresh consideration of the application under Section 389(1) Cr.P.C. in the light of the observations made therein and the law declared by the Hon'ble Apex Court in Jamboo Bhandari v. M.P. State Industrial Development Corporation Ltd. The present application therefore requires independent consideration on its own merits.
>
> 9. Having regard to the nature of the offence, the fact that the appeal is pending, the grounds urged in the appeal, and the fact that the appellants have already approached the appellate forum and the matter is yet to be finally heard, this Court is of the considered opinion that the sentence deserves to be suspended subject to stringent conditions so as to safeguard the interest of the respondent/complainant and to ensure the presence of the appellants during the pendency of the appeal. Hence, I proceed to pass the following;

ORDER

The application filed under Section 389(1) Cr.P.C. is allowed.

The execution of the sentence imposed upon the appellants/Accused Nos.2 to 4 in C.C. No.52971/2017 by judgment dated 10.09.2025 is hereby suspended till disposal of the appeal, subject to the following conditions:

1. The appellants shall deposit 20% of the fine amount imposed by the Trial Court before the Trial Court within 60 days from the date of this order.

2. The appellants shall appear before this Court as and when called upon.

3. The appellants shall not tamper with the prosecution evidence or influence the respondent/witnesses in any manner.

4. In the event of failure to comply with any of the above conditions within the stipulated time, the order of suspension of sentence shall stand vacated automatically without further reference to this Court.**"**

5. A perusal at the order would indicate that the concerned appears to be blissfully ignorant of what this Court had directed to consider to the application in the teeth of the judgment of the Apex Court in the case of **JAMBHOO BANDARI** supra. The concerned Court has repeated what it had earlier done, which was found fault with at the hands of

this Court. Therefore, while directing the concerned Court to pass appropriate orders in accordance with law, it is needless to observe that the parties should not be driven back to this Court on the score that the concerned Court has not recorded reasons, as was directed by this Court earlier. In the light of the judgment of the Apex Court and the order being blatantly contrary to the judgment of the Apex Court in the case of **JAMBHOO BANDARI** supra and what was directed by this Court, the petition deserves to succeed, *albeit* with the same direction that was done earlier order.

6. For the aforesaid reasons, the following:

ORDER

i) Criminal Petition is **allowed-in-part.**

ii) Order dated 06.08.2026 in Crl.A.No.25388/2025 passed before learned IV Addl. City Civil and Sessions Judge, Mayohall Unit, Bengaluru (CCH-21), is quashed.

iii) The matter is remitted back to the hands of the concerned Court to answer the application of suspension of sentence bearing in mind the observations made in the course of the

order, particularly, the law as laid down by the Apex Court in **JAMBOO BHANDARI vs. MADHYA PRADESH STATE INDUSTRIAL DEVELOPMENT CORPORATION LIMITED AND OTHERS** supra.

iv) In the light of the order of suspension being granted to the petitioners, the same shall continue till further orders are passed at the hands of the concerned Court.

v) The concerned Court shall pass orders bearing in mind the observations in the course of this order within **four** weeks from the date of receipt of the copy of the order.

Sd/-
(M.NAGAPRASANNA)
JUDGE

JTR
CT: ASC
List No.: 19 Sl No.: 8