

**IN THE COURT OF II ADDL.DISTRICT AND SESSIONS
JUDGE AT: BENGALURU SOUTH DISTRICT
(SITTING AT KANAKAPURA)**

Present:

**Sri.Madhusudhanaram K.V.
B.A. LL.B.,
2nd Addl. District & Sessions Judge,
Ramanagara, Bengaluru South District,
(Sitting at Kanakapura)**

Dated: 07th day of July 2026

Crl.Appeal.No.5005/2026

APPELLANT: M/s. Bulking
Represented by its Proprietor,
Sri.Basavaraju.P
S/o Puttaswamygowda
Aged about 56 years,
King fit shirts and Jeans Makers,
Shirts and Jeans – All men's
Need No.329, 1st Floor,
Opposite to I.B. Extension,
Kanakapura Town-562117.

(By Sri.Ramachandra Advocate)

V/s.

RESPONDENT: Sri. Basavegowda
S/o Kenchegowda
Aged about 67 years,
R/at : Basaveshwara Nagara,
Near Old St. Michel School,

Kanakapura Town,
Bengaluru South District.

(By Sri.S.V.Veerappa Advocate)

**ORDERS ON APPLICATION FILED U/sec.148 and
143(A) (3) OF N.I. ACT**

The counsel for the respondent has filed this application to pass necessary order for release the deposited 20% of fine amount of Rs.14,68,516/-in the name of Respondent/Complainant.

2. It is averred in the application that, the respondent/complainant has filed the complaint against the appellant/accused in C.C.No.1374/2022 on the file of the learned III Addl. Civil Judge and JMFC, Kanakapura, for the offence punishable under Sec.138 of N.I. Act after full-fledged trial the learned Trial Court had convicted the appellant/accused on 31.12.2025.

3. It is further averred in the application is that the appellant being aggrieved by the judgment and conviction passed by the learned Trial Court, has preferred this appeal before this court and this court has ordered the appellant to deposit 20% of the fine amount.

4. Further it is averred in the application that, the respondent has under takes to all terms and conditions

imposed by this court and if the appellant/accused succeeded, the respondent/complainant has refund the said amount to the appellant/accused. Further it is averred in the application that, if the application filed by the respondent/complainant is not allowed certainly the respondent/complainant will be put to irreparable loss and injury. On the other hand, if this application is allowed no hardship would be caused to the other side. Therefore, he prays before this court to pass necessary order to release the entire amount of Rs.14,68,516/- in favour of complainant and prays to allow the application.

5. Per contra, the counsel for Appellant/accused has stoutly resisted the application filed by the respondent/complainant by way of filing of the statement of objections. In the statement of objections the appellant/accused has contended that, the application filed by the respondent/complainant is not at all maintainable under law.

6. The appellant/accused further contended that, the respondent/complainant has filed private complaint against the appellant/accused praying for criminal action against the appellant/accused in CC.No.1374/2022. After full-fledged trial the learned Trial court has convicted the appellant/accused for the offence punishable under

Sec.138 of N.I.Act. Further the appellant/accused is directed to pay fine of Rs.73,42,582-, in default, the appellant/accused shall under go simple imprisonment for a period of 6 months.

7. The appellant/accused further contended that, on the strength of the judgment and conviction passed by the learned Trial court, the appellant/accused preferred this appeal and also filed an application for stay the operation and execution of the judgment and conviction passed by the Trial court. And this court stayed the judgment and conviction passed by the learned Trial court in CC. No.1374/2022 and further directed the accused/appellant to deposit 20% of the fine amount. As per the directions of this court, the appellant/accused has deposited a sum of Rs.14,68,516/- before the Trial court. Further appellant/accused contented that, the said amount need not be released in favour of the respondent/complainant. If the amount is released in favour of the respondent/complainant, the appellant/accused will be put to great hardship. Hence, in view of the above facts, the appellant/accused prays for dismissal of the application filed by the respondent/complainant.

8. Heard arguments on both side and I have perused materials available on record.

9. The points that arise for my consideration are:-

1. Whether the Respondent/complainant has made out sufficient grounds for order to release the amount of Rs.8,31,801/- in favour of complainant /respondent?

2. What order?

10. My answer to the above points are as follows:

Point No.1: In the affirmative.

Point No.2: As per final order for the following;

REASONS

11. Point No.1:- I have carefully perused the entire materials available on record, it clearly depicts that the present respondent is arrayed as complainant and Appellant is arrayed as accused in C.C.No.1374/2022 before the Trial court.

12. It is the specific contention of the learned counsel for the respondent/complainant that he needs/require money. As such, he prays before this court to pass necessary order to release the 20% of the compensation amount of Rs.14,68,516/- in favour of the respondent/complainant.

13. Whereas it is the contention of the learned counsel for the appellant/accused that the compensation amount which is deposited by the appellant/accused did not be released in favour of the respondent/complainant. As such, the application filed by the respondent/complainant is deserves to be rejected.

14. I have carefully and consciously gone through the submissions made by the learned counsels appearing for the parties.

15. Before going to consider the submissions, I feel it is just and proper to quote Sec.148 of N.I. Act which reads as under;

Section 148: Power of Appellate Court to order payment pending Appeal against conviction.
1.Notwithstanding anything contained in the Code of Criminal Procedure, 1973, 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 percent 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 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.

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.

16. On close reading of the Sec.148 of the N.I.Act that Appellate court may order the accused/appellant to deposit a minimum 20% of the fine amount or the

compensation awarded by the Trial court and if the said amount is deposited within sixty days from such order, the said court may direct to release the amount in deposit made by the accused/appellant to the complainant/respondent during the pendency of the matter. Proviso of the said Act says that while releasing such amount, the complainant/respondent must be directed to repay the said amount in the event of acquittal of the accused/appellant with interest at the bank rate which was prevailing during the said period.

17. On plain reading of the said section it indicates that this court which has got ample power to order for release of such amount which has been deposited by the Appellant/accused.

18. Having regard to the facts and circumstances of the case, without expressing anything on the merits of the case, I am of the clear considered opinion that it is just and proper to allow the application filed by the respondent/complainant by imposing certain conditions. With these specific observations, I answer **point No.1 in the Affirmative.**

19. Point No.2:- Keeping in view of the findings already given on point No.1, I proceed to pass the following;

--ORDER--

The application filed by the respondent/complainant U/sec.148 and 143(A) (3) of N.I.Act is hereby allowed, subject to the following conditions.

1. The Trial court is hereby directed to release 20% of the amount which is deposited by the Appellant/accused in favour of the respondent/complainant.

2. If the appellant/accused is acquitted, the respondent/complainant has to repay the said amount of 20% so released in favour of him with interest at the bank rate as on the date of the release.

3. The respondent/complainant has to execute an Indemnity bond with one surety for likesum to the satisfaction of the Trial court to the effect that in the event of acquittal of Appellant/accused, he shall indemnify the said amount with interest at the bank rate as on the date of release of the amount.

(Dictated to stenographer directly on computer and the same is corrected, signed by me and then pronounced in the Open-Court on **07th day of July-2026.**)

**(Sri.Madhusudhanaram K.V.)
II Addl. District & Sessions Judge
Ramanagara, Bengaluru South District,
(Sitting at Kanakapura)**