

Order on IA U/Sec.148(3) of NI Act

The Respondent has filed the above application seeking permission of this court to withdraw an amount of Rs.1,00,000/- deposited by the Appellant in terms of the interim order passed by this court. It is stated by the Respondent that, the Appellant has deposited 20% of the cheque amount and the Respondent is entitled to withdraw the said amount.

In spite of sufficient opportunity, the appellant has not chosen to file objections to the above application.

The Appellant being aggrieved by the judgment of conviction passed by the XVII Addl. SCJ & ACMM, Mayohall Court, in CC No.59737/2018,

dtd.30.08.2022, for the offence punishable U/Sec.138 of NI Act and imposing fine of Rs.5,88,000/- is before this court challenging the same. This court while suspending the sentence, directed the Appellant to deposit 20% of the cheque amount before the Trial Court and accordingly the Appellant appears to have deposited the amount. Now the Respondent is intending to withdraw the said amount and therefore she sought permission of this court.

Sec.148(3) of the NI Act provides for release of amount deposited by the Appellant to the complainant at any point of time during the pendency of the appeal. However subject to condition that in the event of acquittal of the Appellant, the complainant has to repay the said amount with interest at bank rate. Since there is rider in the provision itself, there is no impediment for this court to permit the Respondent to withdraw the amount deposited by the Appellant, subject to proviso to Sec.148(3) of NI Act. Therefore the application deserves to be allowed and the Trial Court is directed to release the amount of Rs.1,00,000/- deposited by the Appellant Q No.8817/2022, dtd.08.12.2022

*infavour of the complainant in accordance with law,
under proper identification and acknowledgment.
However it is made clear that in the event of acquittal
of the Appellant in the above appeal, the complainant
shall repay the amount to the Appellant alongwith
the interest at bank rate.*

For arguments on main appeal by 28.02.2023.

[P.G. Chaluva Murthy]
*LXXII Addl.City Civil &
Sessions Judge, (CCH-73) Bengaluru.*