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49-WP-614-2025

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

49 CRIMINAL WRIT PETITION NO. 614 OF 2025

Venkatesh Agency Through Its Proprietor Kalpana Dnyaneshwar Alias
Sanjay Harale

VERSUS

Maharashtra Agro Industrial Development Corpo Thr Divi Manager
Vishwanath Ramchandra Dudhalkar

AND

50 CRIMINAL WRIT PETITION NO. 615 OF 2025

AND

51 CRIMINAL WRIT PETITION NO. 616 OF 2025

AND

52 CRIMINAL WRIT PETITION NO. 617 OF 2025

AND

53 CRIMINAL WRIT PETITION NO. 625 OF 2025

AND

54 CRIMINAL WRIT PETITION NO. 627 OF 2025

Mr. Mukul S. Kulkarni, Advocate for the Petitioner.

Mr. Anil P. Piratwad, Advocate for Respondent.

CORAM : KISHORE C. SANT, J.

DATE : 4th AUGUST 2025.

PC :-

1. Heard Mr. Kulkarni, learned Advocate for the petitioner and Mr. Piratwad, the learned Advocate for the Respondent. Petition is taken up

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for final disposal at the stage of admission with the consent of the parties.

2. The petitions are arising out of orders passed by the learned Sessions Judge in respective appeals suspending sentence imposed upon the petitioner by the learned trial Court in respective Special Civil Suit.

The details of the cheques are as under:-

Date of cheque	Cheque No.	Amount	SCC No.	Appeal
30.07.2013	000043	10,40,000/-	27/2014	16/2025
25.09.2013	000089	1,00,000/-	60/2014	17/2025
16.11.2013	000027	20,00,000/-	61/2014	18/2025
08.01.2014	000071	22,00,000/-	320/2014	19/2025
06.08.2014	000070	22,00,000/-	321/2014	20/2025
20.12.2013	000068	24,00,000/-	322/2014	21/2025

3. The learned Additional Sessions Judge by order dated 27th March 2025 has suspended the substantive sentence imposed upon the petitioner, subject to depositing 20% of the amount of compensation

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awarded by the trial Court in Section 138 of the N. I. Act cases.

4. The petitioners are aggrieved by the said orders stating that the amount of all these petitions is in the tune of Rs.99,40,000/-. The Court has awarded double the compensation and the amount is about two crores. Though it is tried to be argued on the merit that no case is made out for conviction, this Court finds that this aspect need not be gone into by this Court as the substantive appeals are pending before trial Court.

5. The learned Advocate for the petitioner, thereafter, addressed this Court on merits of the order passed by the learned Sessions Court. He submits that while passing the orders under Section 148 of the Negotiable Instruments Act, the Appellate Court has to record some reasons showing the application of its mind when directing to deposit the amount. He submits that, in the present case, no application of mind is seen. He relied upon the judgments in the cases of ***Muskan Enterprises and Ors. Vs. The State of Punjab and Ors.***¹ and ***Jamboo Bhandari Vs. M.***

1 MANU/SC/1431/2024

P. State Industrial Development Corporation Ltd. And Ors.²

6. In both these judgments, the learned Hon'ble Apex Court held that the orders under Sections 138 and 148 of the Negotiable Instruments Act, are discretionary. However, such orders must show application of mind.

7. The learned Advocate for the respondent vehemently opposed the petition. He submits that the Court has rightly passed the order. The petitioner is convicted after holding a trial wherein it is proved that cheques were issued for legally enforceable liability.

8. Considering the orders passed by the learned Sessions Judge and the judgments relied upon by the learned Advocate for the petitioner, this Court finds that the order is too short to disclose proper application of mind. It was necessary for the Court to show some reason as to why the order is passed directing to deposit the amount.

9. Considering above, this Court finds that there is no application of

² MANU/SC/1005/2023

mind appearing on the face of order. The impugned order is, therefore, quashed and set aside. All the petitions are allowed. Condition of deposit of amount towards suspension of sentence is set aside.

10. The learned Sessions Judge, Parbhani is requested to decide the appeal within six months from today.

11. With this, writ petitions stand disposed off.

[KISHORE C. SANT, J.]