**If multiple cheque dishonour prosecutions arise out of a single transaction, and continued custody for default in payment of fine becomes excessively disproportionate, the High Court may equalise the aggregate default sentence to the period already undergone, without extinguishing the complainant's right to recover the fine**

The **Karnataka High Court** in the case of **Dinesh Malpani vs State of Karnataka [Criminal Petition No.5718 of 2026] dated June 04, 2026**, has held that imprisonment in default of payment of fine under Section 138 of the Negotiable Instruments Act is coercive and not substantive in character. Therefore, where multiple cheque dishonour prosecutions arise out of a single transaction, and continued custody for default in payment of fine becomes excessively harsh and disproportionate, the High Court may, in exercise of its jurisdiction, moderate and equalise the aggregate default sentence to the period already undergone, without extinguishing the monetary liability or the complainant's right to recover the fine in accordance with law.

The Court observed that Section 65 IPC, now mirrored in Section 8(3) BNS, embodies a restraint on sentencing power by providing that imprisonment in default of payment of fine cannot exceed one-fourth of the maximum term prescribed for the offence. The Court emphasized that the legislative intent behind the provision is that imprisonment in default is a coercive mechanism to secure payment and not a disproportionately oppressive penalty.

The Court further noted that Section 138 of the Negotiable Instruments Act prescribes a maximum punishment of two years' imprisonment, or fine extending to twice the cheque amount, or both. Consequently, when read with Section 65 IPC and Section 8(3) BNS, the outer limit of imprisonment in default of payment of fine would be six months in each case. While examining the legal position, the Court reiterated that default imprisonment is not an additional punishment for cheque dishonour but a coercive and procedural consequence of non-payment. It also recognised the caution in these decisions against converting default imprisonment into a debtors' prison model and against using it as a disguised method of enhancing substantive punishment.

Applying those principles, the Court held that the petitioner had demonstrated financial incapacity to satisfy the fine amounts and that his prolonged incarceration had caused hardship to his family. In these circumstances, continued detention in default of payment of fine was found to be disproportionate. At the same time, the Court clarified that the complainant's and the State's right to pursue recovery proceedings remained unaffected, and proceedings under Section 421(1) CrPC could continue independently.

Accordingly, the Court directed that the aggregate default sentence of imprisonment imposed upon the petitioner be proportionately staggered, moderated and equalised to the period of imprisonment already undergone by him in default of payment of fine.