



HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION NO.1398 OF 2018

(397(Cr.PC) / 438(BNSS))

BETWEEN:

SRI. B. GOPALAKRISHNA
S/O BACHAPPA
AGED 50 YEARS
PROPRIETOR: GOKUL PRINTERS
NO.6/9, 2ND MAIN
OPP. RAHEJA PARK
GOVINDARAJANAGARA
MAGADI ROAD
BENGALURU - 40

...PETITIONER

(BY SRI. M B CHANDRACHOODA., ADVOCATE)

AND:

SRI. K. N. MARIGOWDA
S/O LATE NARASIMHAIAH
AGED 67 YEARS
R/AT NO.720, 19TH MAIN ROAD
1ST BLOCK, 3RD STAGE
MANJUNATHANAGAR
BENGALURU - 560 010

...RESPONDENT

(BY SRI. SAMPATH BAPAT., ADVOCATE (ABSENT))





THIS CRL.RP IS FILED UNDER SECTION 397 R/W 401 CR.P.C PRAYING TO SET ASIDE THE ORDER DATED 30.11.2018, PASSED IN CRL.A.NO.1512/2016, ON THE FILE OF THE LXVIII ADDL. CITY CIVIL & SESSIONS JUDGE, BANGALORE CITY (CCH-69), AND THE ORDER DATED 23.11.2016, PASSED IN C.C.NO.28390/2014 ON THE FILE OF THE 23RD ACMM, BANGALORE CITY AND ETC

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

Heard Sri.M.B.Chandrachooda, learned counsel for the petitioner. None appears for the respondent.

2. Present petition is filed by the accused/petitioner who suffered an order of conviction in CC No.28390/2014, confirmed in Criminal Appeal No.1512/2016.



3. Facts in the nutshell which are utmost necessary for disposal of the revision petition are as under:

3.1. A complaint came to be lodged under Section 200 Cr.P.C alleging the commission of offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short 'NI Act') by contending that accused and complainant are friends for several years. On 15.04.2014, accused approached the complainant, obtained hand loan of Rs.3,00,000/- for improvement of his printing press business with a promise to repay the same within 3 months.

4. In order to discharge the liability of Rs.3,00,000/- he issued a cheque bearing No.780475 dated 15.07.2014 drawn on National Co-operative Bank Ltd., Agrahara Dasarahalli Branch, Bengaluru, which on presentation came to be dishonored with an endorsement 'Payment stopped by Drawer'.



5. Legal notice was issued calling upon the amount covered under the cheque to be repaid. The said notice is served on the address of the accused. But there was no compliance to the callings of notice nor the reply. Therefore, complainant sought for action against the accused.

6. Learned trial magistrate after completing the necessary formalities, summoned the accused and recorded plea. Accused pleaded not guilty. Therefore, trial was held.

7. In order to prove the case of the complainant, complainant got examined himself as PW.1 and placed on record 10 documents which are exhibited and marked as Ex.P1 to Ex.P10 comprising of original cheque, bank endorsement, office copy of legal notice, postal receipts and acknowledgment, speed post acknowledgment, statement of account, ITR form and Statement of account of the accused. In detailed cross examination of the



complainant, except suggesting that the cheque has been misused, which has been denied, no other useful material is elicited by the accused.

8. Thereafter accused got examined himself as DW.1 and placed on record 10 documents. Ex.D1 to Ex.D10 comprising of statement of account, letter dated 17.05.2012, Bank account passbooks, cheque books record slips and copy of the letter dated 07.05.2012.

9. On behalf of the accused, bank manager by name Keshava Hegade was examined as DW.2. In the cross examination of accused, he has admitted Ex.P1- cheque belongs to him and signature found therein is that of the accused. He also admits that the address mentioned in the postal acknowledgment is his address.

10. It is the specific case of the accused that he had borrowed sum of Rs.1,00,000/- agreeing to repay the same with interest at the rate of 3.5% which has been paid through the bank and therefore, the cheque which



was issued as security has been misused by the complainant.

11. To probabalise such a defence, except the oral testimony of accused, there is no other material on record. Stop payment instruction is acted upon by the bank.

12. But in the cross examination of DW.2, he categorically admits that there was no sufficient balance as on the date of presentation of Ex.P1 in the account of accused.

13. It is settled principles of law and requires no emphasis that if the sufficient balance is not available in the account of the accused, stop payment instructions though acted upon by the bank, it should be construed that the cheque has been dishonoured for want of sufficient funds.

14. Further, no legal action has been taken by the accused even after he appeared before the Court and



engaged the services of an advocate for the alleged misuse of the cheque which has been given as security.

15. A cheque which has been given as the security would also attract the offence under Section 138 of NI Act, under the principles of law enunciated by the Hon'ble Apex Court in the case of ***Sripati Singh vs. State of Jharkhand and Anr.*** reported in ***2021 SCC Online SC 1002.***

16. Taking note of these aspects of the matter, this Court is of the considered opinion that the learned trial magistrate and learned judge in the First Appellate Court were justified in rejecting the defence of the accused and convicting the accused for the offence punishable under Section 138 of the NI Act.

17. Having regard to the limited powers of the revision jurisdiction, this Court does not find any reason whatsoever much less good reasons to interfere with the



order of the trial magistrate confirmed by the First Appellate Court.

18. Accordingly, the following:

ORDER

Revision petition is ***dismissed***.

**Sd/-
(V SRISHANANDA)
JUDGE**

NS
List No.: 2 SI No.: 67