



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE H.P.SANDESH

CRIMINAL REVISION PETITION NO.925 OF 2026

BETWEEN:

1. SRI ANIL KUMAR D V
AGED 53 YEARS,
S/O. LATE VENKATAPPA,
VIJAYANAGARA,
MADERAHALLI POST,
RESIDING NEAR POOJA
CHOULTRY,KOLAR TOWN.
PIN- 563 102.

...PETITIONER

(BY SRI. A. S. KULKARNI, ADVOCATE)

AND:

1. SRI R MUNILAKSHMAIAH
AGED 75YEARS, S/O. LATE RAMAIAH,
RESIDING AT DODDA IGGALURU VILLAGE,
MASTHI HOBLI, MALUR TALUK,
KUDIYANUR POST,KOLAR DISTRICT.
PIN-563 130.

...RESPONDENT

THIS CRL.RP IS FILED U/S. 397 R/W 401 CR.P.C BY THE ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONBLE COURT MAY BE PLEASED TO SET ASIDE THE JUDGMENT AND ORDER DATED 17.03.2026 PASSED BY THE LEARNED I ADDL.DISTRICT AND SESSIONS JUDGE, AT KOLAR IN CRL.A NO.26/2025 DISMISSING THE APPEAL AND CONFIRMING THE JUDGMENT OF CONVICTION AND SENTENCE DATED





22.01.2025 PASSED BY THE LEARNED II ADDL.CIVIL JUDGE AND JMFC, MALUR IN CC NO.1458/2021 CONVICTING THE PETITIONER FOR AN OFFENCE P/U/S 138 OF THE N.I ACT. FOR SUSPENSION OF SENTENCE.MD23.06.2026

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

CORAM: HON'BLE MR. JUSTICE H.P.SANDESH

ORAL ORDER

This matter is listed for admission.

2. Heard the learned counsel for the revision petitioner and the learned counsel for respondent.

3. The factual matrix of the case of the complainant before the trial Court are that the complainant is an agriculturist having immovable landed properties. The accused was running a cement business at railway station extension, Malur. The complainant has purchased the cement bags for the construction of Lakshmi temple at Doddagigalur village of Malur Taluk. The complainant and the accused family are in good terms with each from 2014 to 01.02.2021. The accused approached the complainant for the amount on second



week of December 2020 for his family necessities. On 21.12.2020, the complainant has paid Rs.6,50,000/- (Rupees Six lakhs fifty thousand only) to the accused and the accused agreed to repay the same within one month. After the completion of one month, the complainant demanded the accused for repayment of the amount, after several request and demands on 01.02.2021, the accused issued a post dated Cheque for an amount of Rs.6,50,000/- and when the same was presented for encashment, it was returned with an endorsement 'funds insufficient'. The complainant issued legal notice to the accused on 24.02.2021 and it was duly served to the accused on 01.03.2021. In spite of service of notice, the accused did not repay the said amount. Hence, the complainant filed complaint against the accused. The cognizance was taken, accused was secured and he did plead guilty and claims trial.

4. In order to prove the case, the complainant got examined himself as P.W.1 and got marked 8 documents



as Exs.P1 to P8 and on the other hand, accused in order to disprove the case of complainant examined himself as D.W.1 and no documents are marked on his behalf. However, learned counsel for complainant has confronted Exs.P9 to P13 from D.W.1. By considering both oral as well as documentary evidence on record, the trial Court convicted and sentence the accused for the offence punishable under Section 138 of N.I.Act. The said order was challenged by the revision petitioner before the appellate Court in Crl.A.No.26/2025 and the appellate Court also re-appreciated the evidence on record and confirms the order of the trial Court. Hence, the revision petitioner is before this Court in the present revision.

5. Learned counsel for the revision petitioner would submit that the findings given by both the Courts in convicting the accused is incorrect, illegal and improper and same are not sustainable in law. Further, he contend that the complainant failed to prove his case beyond all reasonable doubt and also failed to bring the offence



against the accused within the four corners of the definition of Section 138 of Negotiable Instruments Act,1881 (hereinafter referred to as 'N.I.Act' for short.) It is contended that the fact of existence of legally enforceable debt or liability before invoking presumption under Section 139 of N.I.Act. On all these factors, the counsel prays to allow this revision by exercising revision powers.

6. Having heard the learned counsel for revision petitioner, it is noted that the trial Court while considering the material on record, particularly in paragraph No.14 of its judgment, wherein it has taken note of the fact that learned counsel for the complainant has confronted a copy of the complaint in C.C.No.386/2013 from D.W.1 and the same is marked as Ex.P11. D.W.1 identifies the same and deposed that he did not know who is the complainant in Ex.P11, i.e., C.C.No.386/2013. D.W.1 also admitted that he has compromised in CC No.386/2013 for an amount of Rs.3,00,000/- with the complainant Narayana Swamy. He



denied that he know the complainant from the year 2014 to the date of Cheque in the case of his wife. But in the year 2014, he has given cheque to the complainant of this case for the settlement of his wife's case, where the complainant in this case and in the case of his wife are one and the same. Further, D.W.1 admitted his signature in Ex.P1- cheque. He also admitted that the said Cheque belongs to the account in Punjab and Sindh Bank. He admitted his bank account number in cheque belongs to his SB account. He further deposed that he has not taken any legal action against the complainant with respect to the said cheque.

7. Further, the trial Court has taken note of admissions on the part of D.W.1 that he has signed the reply notice and he has given information to prepare Ex.P6- reply notice to his advocate and perusal of Ex.P6- reply notice, it is found that in paragraph No.6 of his reply notice wherein it is stated that the accused has taken contention that complainant was running chit business, in



the year 2019 he was the customer/subscriber for the chit of Rs.1,00,000/- (Rupees One lakh only). D.W.1 got Rs.80,000/- (Rupees Eighty thousand only) and for the security, he has given two signed cheques bearing Nos.326580 and 326579. The accused has paid all the monthly balance installments and the said chit was closed on January 2020, but the complainant has not returned the cheques to the accused and therefore, taking into account of the defence, comes to conclusion that the defence which was not substantiated and not rebutted the case of complainant. When there is a categorical admission on the part of D.W.1, that the cheque was given as per Ex.P1 in connection with the earlier case and given the same and contra defence was taken in the reply statement, all these factors were noticed by the trial Court as well as appellate Court. The appellate Court also reassessed the evidence available on record taking note of the fact that the complainant is not known to the accused is far from truth as in the cross-examination, he said since



the date of complaint, the complainant is known to him. Further, in paragraph Nos.17 and 18, the appellate Court has taken note of the fact in respect of the reply notice at Ex.P6 and testimony before the trial Court wherein, the accused has stated that he has not issued any cheques and he did not know the complainant and the said defence is falsified and confirmed the same.

8. Now the counsel appeared for revision petitioner would submit that he has complied with the direction given by the appellate Court and deposited the amount and counsel submitted that the trial Court and appellate Court committed an error in convicting and sentencing the accused and the same requires reconsideration.

9. Having considered the reasons assigned by the trial Court as well as by the appellate Court re-appreciated the evidence on record, I do not find any reason to admit this revision since the scope of revision is very limited i.e.



to examine whether the orders of trial Court as well as the appellate Court suffers from its legality and correctness. Hence, the revision petition is ***dismissed***.

Sd/-
(H.P.SANDESH)
JUDGE

SSD
List No.: 1 Sl No.: 65