NC: 2026:KHC:32879
CRL.RP No. 565 of 2024

HC-KAR

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.565 OF 2024

BETWEEN:

1. JATTI PROJECT INC.,
   A PROPRIETORY CONCERN
   HAVING ITS OFFICE AT SY.NO.51,
   PATTANDUR AGRAHARA,
   WHITEFIELD, OUTER CIRCLE,
   BENGALURU-560 066,
   REPRESENTED BY ITS PROPRIETOR
   D.B. JATTI.

2. D.B. JATTI,
   S/O LATE B.D.JATTI,
   M/S. JATTI PROJECT INC.,
   AGED ABOUT 79 YEARS,
   R/AT VILLA NO.7,
   DWARAKAMAI SY.NO.51,
   ECC ROAD, OUTER CIRCLE,
   WHITEFIELD,
   BENGALURU-560066.

...PETITIONERS

(BY SRI. CHETHAN A.C., ADVOCATE)

AND:

1. SRI. ABI VARNA ENTERPRISES,
   A REGISTERED PARTNERSHIP FIRM,
   HAVING ITS OFFICE AT NO.98,
   AVENUE ROAD,
   BENGALURU-560002,

REPRESENTED BY ITS PARTNER
D.V. NARENDRA BABU.

...RESPONDENT

(BY SRI. ANNAIAH C.V., ADVOCATE)

THIS CRL.RP IS FILED UNDER SECTION 397 R/W 401 OF CR.P.C PRAYING TO SET ASIDE THE JUDGMENT OF THE LXVIII ADDL. CITY CIVIL AND SESSIONS JUDGE DATED 09.02.2024 IN CRIMINAL APPEAL NO.394/2021 (ANNEXURE-A) CONFIRMING THE JUDGMENT OF THE II ADDL. JUDGE AND XXVIII ACMM COURT OF SMALL CAUSES, BENGALURU DATED 05.04.2021 IN C.C.NO.27079/2010 (ANNEXURE-B) CONVICTING THE PETITIONER FOR THE OFFENCE PUNISHABLE UNDER SECTION 138 OF NEGOTIABLE INSTRUMENTS ACT, 1881.

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

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

ORAL ORDER

This matter is listed for admission. Heard the learned counsel for the revision petitioners and the learned counsel for the respondent.

2. The factual matrix of the case of the complainant before the Trial Court while invoking Section 138 of the Negotiable Instruments Act, is that accused No.1 M/s.Jatti Projects Incorporation is a proprietary concern of accused No.2 Sri D.B. Jatti. The complainant M/s. Abi Varna Enterprises is a registered partnership firm through its partner Sri D.V.

Narendra Babu. It is contended that accused No.2 taking advantage of the friendship and long standing relationship with the complainant, approached for financial assistance and induced the complainant to advance Rs.21,00,000/- as loan on different dates. Having considered the business relationship and the friendship, the complainant lent the accused a sum of Rs.21,00,000/- by way of cheques on 10.04.2007, 04.08.2008 and 13.10.2008. The accused No.2 as the proprietor of accused No.1 had executed On Demand Promissory Note in favour of the complainant as and when the money was borrowed and it was promised to repay the same with interest at 1.4% per month. The accused had also made deductions while paying interest towards the complainant purportedly towards the income tax viz., TDS amounting to Rs.17,447/-, but he failed to make remittance to the Income Tax Department and did not issue necessary certificate. After repeated requests and demands made by the complainant for payment of the amount due, the accused has issued the subject matter of the cheques for an amount of Rs.4,50,000/- and Rs.5,00,000/-. When the said cheques were presented, they were returned with an endorsement, "funds insufficient". Thereafter, legal notice was issued and the same was served, but no reply was given. Hence, complaint was filed and the Trial Court took the cognizance and secured the accused and accused did not plead guilty and hence, the complainant examined one witness as P.W.1 and got marked the documents Exs.P.1 to 26. The accused also examined two witnesses as D.W.1 and D.W.2 and got marked the documents at Exs.D.1 to 8.

3. The Trial Court having considered the material available on record, comes to the conclusion that when the notice was issued, no reply was given and inspite of it, the accused contend that he made the payment. The Trial Court also taken note of clear admission on the part of the accused that he availed loan of Rs.21,00,000/- on three different dates and made the payment and to that effect, discussion was made in paragraph No.21. With regard to the remaining amount is concerned, subject matter of two cheques are issued. Hence, convicted and sentenced the accused.

4. The same is challenged before the Appellate Court in Crl.A.No.394/2021. The Appellate Court re-appreciated the evidence available on record, particularly the documents of 'P'

Series and also 'D' series and also the admission on the part of D.W.1 and D.W.2, wherein categorically admitted that post-dated cheques are given. With regard to the payment is concerned also, the same was discussed and re-appreciated the evidence available on record in paragraph Nos.18, 19 and 20 and considered the issuance of cheques Exs.P.13 and 14 issued by the accused and the same has not been disputed. Hence, the Appellate Court confirmed the judgment of the Trial Court.

5. The main contention of the learned counsel for the revision petitioners in this revision petition is that in order to prove the factum that the complainant was doing the money lending business, he has not produced any license. The learned counsel also would submit that when the payments are made, the same was not properly considered. The learned counsel also relies upon the judgment of the Apex Court in the case of **RAJENDRA ANANT VARIK v. GOVIND B. PRABHUGAONKAR** passed in **SLP (Crl.) No.4728/2023** and brought to the notice of this Court paragraph No.8, wherein discussed that upon having considered the entirety of the facts and circumstances as emerging from the record, we find that the High Court, while reversing the acquittal of the accused-

appellant, as recorded by the First Appellate Court, did not advert to the important issue regarding applicability of the Goa Act which provided a valid defense available to the accused-appellant. Thus, apparently, the judgment rendered by the High Court does not stand to scrutiny.

6. The learned counsel for the respondent would vehemently contend that there is no dispute with regard to that there was a transaction between the complainant and the accused and the same is admitted and the accused availed loan to the tune of Rs.21,00,000/- and the same is also admitted. For having repaid the amount, it is specifically admitted that an amount of Rs.17,00,000/- was paid and the same was taken note of in paragraph No.21 of the judgment of the Trial Court and the Appellate Court also appreciated the same. It is not the case of the petitioners/accused that he has paid the entire amount. The fact is that loan was advanced on three different dates, in total to the tune of Rs.21,00,000/- and the case of the complainant is also that Rs.21,00,000/- was paid to the accused and there is no dispute. The learned counsel would submit that if the Court comes to the conclusion that order

suffers from its legality and correctness, then only the Court can entertain the revision.

7. Having heard the learned counsel for the revision petitioners and the learned counsel for the respondent, the first and foremost argument of the counsel appearing for the petitioners is that no license is produced by the respondent for lending the money. In order to prove the factum that he was lending money and he was a money lender, nothing is placed on record. Nothing is elicited during the course of cross-examination that he was lending money and he was a money lender. When such being the case, the question of producing the license does not arise and hence, the first limb of argument cannot be accepted.

8. The other contention of the learned counsel for the revision petitioners is that the amount was paid and cheques are misused. But the accused categorically admitted with regard to the issuance of the post-dated cheques and also receiving of Rs.21,00,000/- is also not disputed. His only contention is that he repaid the amount of Rs.17,00,000/-. Even according to the accused, balance was Rs.4,00,000/- in

terms of the cross-examination of P.W.1. The Trial Court also taken note of the fact that when the notice was issued demanding the balance amount of Rs.9,50,000/-, no reply was given. Apart from that, it is not in dispute that loan was taken on three occasions i.e., on 10.04.2007, 04.08.2008 and 13.10.2008 and the same was taken note of in paragraph No.21 by the Trial Court and admittedly, there were many loan transactions, even upto Rs.30,00,000/- with the complainant. The accused has failed to prove that the cheques issued by him were subsequent to the loan transactions stated in the complaint and the payments made are with respect to the alleged loan transactions only. The cheques Exs.P.13 and 14 are admitted and the case of the complainant is not rebutted, though examined the witnesses as D.W.1 and D.W.2 and got marked the documents and all these documents were also taken note of by the Trial Court as well as the First Appellate Court. When both oral evidence of P.W.1 and also D.W.1 and D.W.2 as well as documentary evidence were taken note of by both the Courts, the question of coming to the conclusion that the order suffers from its legality and correctness does not arise. Hence, I do not find any ground to admit the revision petition.

9. Accordingly, the revision petition is dismissed.

Sd/-
(H.P.SANDESH)
JUDGE

MD
List No.: 1 Sl No.: 41