



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

CRIMINAL REVISION PETITION NO.490/2023

BETWEEN:

1. M/S SHRUTHI ENTERPRISES
REPRESENTED BY ITS PROPRIETOR
SRI NAGARAJ NADIGER
NO.14/231, 1ST MAIN, 1ST CROSS,
BEHIND GOVERNMENT HOSPITAL,
GANDHINAGARA,
YELAHANKA
BENGALURU-560064

...PETITIONER

(BY SRI. MANJUNATH H., ADVOCATE)

AND:

1. M/S AKSHARA DRUG HOUSE PRIVATE LIMITED
REPRESENTED BY ITS DIRECTOR
AND AUTHORIZED PERSON,
REGD OFFICE AT NO.333,
1ST FLOOR, 9TH CROSS, 4TH MAIN,
4TH PHASE, PEENYA INDUSTRIAL AREA
BENGALURU 560058

...RESPONDENT

(BY SRI. SANTHOSHKUMAR M.B., ADVOCATE FOR
SRI.VIRUPAKSHA T. T., ADVOCATE)





THIS CRL.R.P. IS FILED U/S 397 R/W SECTION 401 OF Cr.P.C. PRAYING TO (1)SET ASIDE THE JUDGMENT OF CONVICTION DATED 01.03.2021 IN C.C.NO.4659/2018 DISPOSED BY COURT OF ADDITIONAL CHIEF METROPOLITAN MAGISTRATE AND XX ADDITIONAL SMALL CAUSES JUDGE (SCCH-22) AT BENGALURU AND ALSO SET ASIDE THE JUDGMENT IN CRL.A.NO.318/2021 DISPOSED OFF BY THE COURT OF LXVI ADDL.CITY CIVIL AND SESSIONS JUDGE, BENGALURU CITY ON 02.02.20232 AND ETC.

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

CORAM: HON'BLE MR. JUSTICE VENKATESH NAIK T

ORAL ORDER

Heard Sri.Manjunath H., learned counsel for the appellant and Sri.Santhoshkumar M.B., learned counsel for Sri.Virupaksha T.T., learned counsel for the respondent.

2. With the consent of both the parties, the matter is taken up for final disposal.

3. The appellant/accused has filed this petition under Section 397 read with Section 401 of Code of Criminal Procedure, 1973 (for short, "Cr.P.C") praying to set-aside the judgment of conviction and order on sentence dated 01.03.2021 passed by the XX Additional Small Causes Judge and Additional Chief Metropolitan



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Magistrate and M.A.C.T., Bengaluru (SCCH-22) (for short, 'trial Court') in C.C. No.4659/2018 and also set-aside the judgment dated 02.02.2023 passed by the LXVI Additional City Civil and Sessions Judge, Bengaluru City (CCH-67) (for short, 'First Appellate Court') in Crl.A. No.318/2021 for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short, "N.I. Act").

4. For the sake of convenience, the parties are referred to as per their rankings before the trial Court. The petitioner is the accused and the respondent is the complainant before the trial Court.

5. The brief facts of the complainant's case are as under:

The complainant is the Company registered under the Companies Act, carrying business of manufacturing and marketing of Ayurvedic and herbal medicines and cosmetics. The accused purchased various products from the complainant company on 21.06.2018 amounting to



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Rs.59,266/- and on the same day, the accused received the goods. In consideration thereof, the accused issued two cheques bearing No.710549 for a sum of Rs.20,056/- dated 22.07.2018 and another cheque bearing No.710552 for a sum of Rs.39,266/- dated 28.07.2018 drawn on Corporation Bank, Yelahanka New Town Branch, Bengaluru. Upon presentation of the said cheques, the same were returned with a shara 'funds insufficient' in the account of the accused. Hence, the complainant issued a notice and called upon the accused to pay the amount due under the cheques. Though the notice was served on the accused, he neither repaid the amount nor replied to the notice. Therefore, the complainant filed a private complaint under Section 200 of the Cr.P.C. for the offence punishable under Section 138 of N.I. Act.

6. After institution of the complaint, the trial Court recorded the sworn statement of the complainant, took cognizance under Section 190(1)(a) of the Cr.P.C.,



secured the presence of the accused, and recorded his plea.

7. The complainant, in order to prove his case, examined its officer as PW.1 and relied upon as many as 11 documents. On behalf of the defence, the accused was examined as DW.1 and Ex.D1 was marked.

8. After hearing the complainant and the accused, the trial Court convicted the accused for the offence punishable under Section 138 of N.I. Act and sentenced him to pay a fine of Rs.59,266/-. In default of payment of the fine, he shall undergo simple imprisonment for a period of one year.

9. Being aggrieved by the judgment of conviction and order on sentence passed by the trial Court, the accused preferred an appeal before the First Appellate Court in Criminal Appeal No.318/2021. In turn, the First Appellate Court modified the judgment of conviction and order on sentence passed by the trial Court. Insofar as



the fine amount, it was confirmed. However, period of imprisonment has been reduced from one year to three months. Hence, the accused preferred this revision petition.

10. Learned counsel for the petitioner has contended that the cheques inquestion were issued as collateral security for credit facility extended for the supply of medicines to the accused. He further contended that the medicines supplied by the complainant to the accused were of substandard quality and consisted of general medicines which remained unsold. Therefore, the accused made a request to take back all the goods. However, the complainant did not accept the same. On the other hand, the complainant has filed the present complaint. It was further contended that the complainant has failed to prove that the debt inquestion was a legally recoverable debt and the trial Court has erroneously raised the statutory presumption without properly appreciating the provisions



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of Section 138 of N.I. Act. Hence, the learned counsel prayed to allow revision petition.

11. *Per contra*, the learned counsel for the respondent has contended that the accused had admitted the issuance of cheques, his signatures appearing on Exs.P4 and P5. He also admitted that the transaction inquestion. Hence, the trial Court and the First Appellate Court have rightly convicted the petitioner for the offence punishable under Section 138 of N.I. Act. Therefore, he prays to dismiss the revision petition.

12. On perusal of the oral testimony of PW.1, DW.1 as well as the documents relied upon by the trial Court, it appears that, under Ex.P11-tax invoice, the complainant supplied medicines to the accused on credit facility. In consideration thereof, the accused had issued two cheques at Exs.P4 and P5, for a sum of Rs.20,056/- and Rs.39,266/- respectively, drawn on Corporation Bank, Yelahanka New Town Branch, Bengaluru. When the



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complainant presented Exs.P4 and P5-cheques, for encashment, the same were returned with a shara 'funds insufficient' in the account of the accused. Hence, the complainant issued legal notice vide Ex.P8 calling upon the accused to pay the amount due under the cheques. Despite the issuance of legal notice, the accused neither replied to the legal notice nor paid the amount due under the cheques. The respondent/complainant has produced the cheques in question as per Exs.P4 and P5, which bear the signature of the accused on Exs.P4(a) and P5(a). Exs.P6 and P7 are the bank endorsements. Ex.P8 is the legal notice, Ex.P9 is the postal receipt, Ex.P10 is the postal acknowledgement, Ex.P11 is the tax invoice. PW.1/complainant was cross-examined by the counsel for the accused at length. However, nothing has been elicited in his cross-examination to discredit his testimony.

13. On the other hand, DW.1 in his cross-examination has categorically admitted the issuance of cheques as per Exs.P4 and P5, service of notice as per



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Ex.P8, signature found on Exs.P4(a) and P5(a). The only contention of the accused is that the material supplied by the complainant i.e., general medicines which is of substandard quality and though the accused requested the complainant to take back the said materials, the complainant did not take back. The issuance of cheques are admitted, the transaction is also admitted. Therefore, the complainant called upon the accused to pay the amount due under the cheques. The accused has not placed any rebuttal evidence to disprove the case of the complainant. Therefore, the complainant has complied with legal requirement under Section 138 of N.I. Act with regard to issuance of legal notice on the accused. Now, the burden shifts on the accused to disprove the case of the complainant, but the accused has not placed any material to show that the notice was not issued to him.

14. If the cheques were issued as collateral security in relation to the same transaction, the same was to discharge the legally liable debt or there is a presumption



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that negotiable instrument is supported by consideration and the cheques were issued in connection with discharge of liability.

15. The present revision petition has been filed by the petitioner challenging the concurrent findings of the trial Court as well as the First Appellate Court.

16. The scope of revision refers to the limited authority of a higher Court to review the judgments of the trial Court and the First Appellate Court, focusing on correcting errors of jurisdiction or gross legal or factual flaws rather than re-examining the merits of the case. This power is exercised sparingly and is intended to set right a patent defect, and not to function as an automatic second appeal. The specific grounds and limitations vary between civil and criminal proceedings. Revision can address situations where the decision is grossly erroneous, not supported by evidence, or where relevant evidence has been ignored. Therefore, the revision is not a fresh trial,



and there is a bar on re-examining the evidence and substituting the revision Court's own findings for those recorded by the Courts below.

17. The Hon'ble Apex Court in the case of **MUNNA DEVI v. STATE OF RAJASTHAN AND ANOTHER** reported in **(2001) 9 SCC 631** while discussing the scope of Section 397 of the Cr.P.C. held at paragraph No.3 as under:

"3. xxx xxx xxx. The revision power under the Code of Criminal Procedure cannot be exercised in a routine and casual manner. While exercising such powers the High Court has no authority to appreciate the evidence in the manner as the trial and the appellate courts are required to do. Revisional powers could be exercised only when it is shown that there is a legal bar against the continuance of the criminal proceedings or the framing of charge or the facts as stated in the first information report even if they are taken at the face value and accepted in their entirety do not constitute the offence for which the accused has been charged."

18. The Hon'ble Apex Court in the case of **STATE OF TAMIL NADU v. R. SOUNDIRARASU AND OTHERS** reported in **(2023) 6 SCC 768** at paragraph No.79 held as under:



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"79. Thus, the revisional power cannot be exercised in a casual or mechanical manner. It can only be exercised to correct manifest error of law or procedure which would occasion injustice, if it is not corrected. The revisional power cannot be equated with appellate power. A Revisional Court cannot undertake meticulous examination of the material on record as it is undertaken by the trial court or the appellate court. This power can only be exercised if there is any legal bar to the continuance of the proceedings or if the facts as stated in the charge-sheet are taken to be true on their face value and accepted in their entirety do not constitute the offence for which the accused has been charged. It is conferred to check grave error of law or procedure."

19. Further, the Hon'ble Apex Court in the case of **STATE OF MAHARASHTRA v. SUJAY MANGESH POYAREKAR** reported in **(2008) 9 SCC 475** at paragraph No.16 held as under:

"16. xxx xxx xxx. Now it is well settled that revisional jurisdiction can be exercised sparingly and only in exceptional cases. A Revisional Court cannot convert itself into a regular court of appeal."

20. Therefore, the revisional jurisdiction should be exercised in exceptional cases, when there is a glaring defect in the proceedings or there is a manifest error of point of law and consequently, there has been a flagrant miscarriage of justice.



21. In the present case, the trial Court as well as the First Appellate Court, considering the oral and documentary evidence on record and the peculiar facts and circumstances of the case, has rightly convicted the petitioner for the offence punishable under Section 138 of N.I. Act, which does not require any interference by this Court.

22. Accordingly, I pass the following:

ORDER

- i) The Revision Petition is ***dismissed***.
- ii) The judgment of conviction dated 01.03.2021 passed in C.C. No.4659/2018 by the XX Additional Small causes Judge and Additional Chief Metropolitan Magistrate and M.A.C.T., Bengaluru (SCCH-22) and the judgment dated 02.02.2023 passed in Crl.A. No.318/2021 by the LXVI Additional City Civil and Sessions Judge, Bengaluru City (CCH-67) are confirmed.



- iii) The default sentence, as modified by the First Appellate Court, is confirmed;
- iv) Registry is directed to transmit the trial Court Records to the trial Court along with a copy of this order, forthwith.

Pending interlocutory applications, if any, stand dismissed.

**Sd/-
(VENKATESH NAIK T)
JUDGE**

VBS
List No.: 1 SI No.: 5