



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CRIMINAL REVISION PETITION NO. 234 OF 2022

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

BETWEEN:

1. SRI. G B CHANDRE GOWDA
S/O LATE RAME GOWDA
AGED ABOUT 78 YEARS
OFFICE BYARAVAGUDDA ESTATE
GUDDADAMANE POST
ADUR PPST
MUDIGERE TALUK
CHIKKAMAGALURU DISTRICT

PRESENTLY AT NO.325/1
14TH MAIN
5TH CROSS RMV EXTENSION
SADASHIVANAGAR
BANGALORE 560 080



...PETITIONER

(BY SRI SUMA KEDIYALA, ADVOCATE)

AND:

1. M/S. MABA CORPORATE SERVICES PRIVATE LIMITED
NO.186/1, J C COMPLEX
ANNEXURE SIRUR PARK ROAD
SHESHADRIPURAM



BENGALURU 560 020

REGISTERED OFFICE AT
NO.70 BAMANNA
NEAR FARM HOUSE
JALAHALLI EAST
VIDYARANYAPURA POST
BENGALURU 560 097
REP BY ITS
ASSISTANT BY ITS
ASSISTANT MANAGER AND
POWER OF ATTORNEY HOLDER
SMT HEMA PRABHU

...RESPONDENT

(BY SRI. V.KRISHNA MURTHY, ADVOCATE FOR SRI. B.H.
SHAMANNA, ADVOCATE)

THIS CRL.RP IS FILED U/S.397 DR/W 401 CR.P.C BY THE
ADVOCATE FOR THE PETITIONER PRAYING THAT THIS HONBLE
COURT MAY BE PLEASED TO SET ASIDE THE JUDGMENT DATED
14.01.2022 IN CRL.A.NO.2149/2018 ON THE FILE OF THE LIX
ADDITIONAL CITY CIVIL AND SESSIONS JUDGE AT
BENGALURU CONFIRMING THE JUDGMENT OF CONVICTION
AND ORDER OF SENTENCE DATED 29.09.2018 IN
C.C.NO.26833/2016 ON THE FILE OF THE XXVII A.C.M.M., AT
BENGALURU IN C.C.NO.26833/2016 BE DISMISSED THIS
CR.RP BE ALLOWED.

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

CORAM: HON'BLE MR. JUSTICE V SRISHANANDA



ORAL ORDER

Smt.Suma Kedilaya, learned counsel for the revision petitioner and Sri.V.Krishnamurthy, learned counsel for the respondent / complainant.

2. Accused who suffered an order of conviction for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881 (for short '*the Act*') in C.C.No.26833 of 2016 has been sentenced as under:

The complaint filed by the complainant finance company against the accused is allowed.

Consequently, acting under Section 255(2) of Cr.P.C., the accused is convicted for the offence punishable under Section 138 of N.I.Act and sentenced him to pay fine of Rs.90,00,000/-. In default of payment of said fine amount, the accused shall undergo Simple Imprisonment for a period of six months.

Out of the said fine amount ordered to pay Rs.89,75,000/- to the complainant as compensation and the remaining amount of Rs.25,000/- shall go to the state.



3. Validity of the order of conviction is challenged before the First Appellate Court in Criminal Appeal No.2149 of 2018. Learned Judge in the First Appellate Court after securing the records, heard the arguments of the parties and on re-appreciation of the material on record dismissed the appeal of the accused. Being further aggrieved by the same, accused is before this court.

4. Smt.Suma Kedilaya, learned counsel for the revision petitioner reiterating the grounds urged in the petition, vehemently contented that cheque in question did not carry any legally recoverable debt and therefore, order of conviction recorded by both the Courts is suffering from legal infirmity, patent factual error.

5. She would further contend that imposing the fine amount of Rs.25,000/- towards defraying expenses of the State is incorrect and therefore sought for allowing the revision in part.

6. Counsel for the respondent / complainant supports the impugned judgments.



7. Having heard the arguments of both sides, this Court perused the material on record meticulously. On such perusal of the material on record, it is crystal clear that Ex.P2 cheque is belonging to the accused and same is dishonored. Signature of the accused in Ex.P2 is not in dispute. According to the complainant, in respect of the loan transactions, accused has issued the cheque towards the repayment. On demand promissory notes placed on record vide Ex.P14 to Ex. P18 and the ledger account marked at Ex.P19, statement of accounts of the accused marked at Ex.P20 to Ex.P26 and letters of acknowledgment marked at Ex.P27 to Ex.P28 was sufficient enough for learned Trial Magistrate to raise the presumption available to the complainant under Section 139 of the Act.

8. No doubt the said presumption is a rebuttable presumption. In order to rebut the said presumption, accused has neither stepped into the witness box nor placed any documentary evidence on record.

9. Cross examination of PW1 did not yield any sufficient material so as to rebut the presumption available to the complainant under Section 139 of the Act.



10. Thus, the learned Trial Magistrate convicting the accused and sentencing the accused to pay the compensation is just and proper, which has been rightly re-appreciated by the learned Judge in the First Appellate Court.

11. In the limited scope of revisional jurisdiction, this Court does not find any ground to annul the impugned orders of conviction.

12. Having said thus, imposition of fine of Rs.25,000/- towards the defraying expenses of the State needs interference in this revision having regard to the fact that lis is privy to the parties and no State machinery is involved.

13. Accordingly, the following:

O R D E R

(i) Revision petition is ***allowed in part***, while maintaining the conviction of the accused for the offence punishable under Section 138 of the Negotiable Instruments Act, 1881, sentence ordered by the Trial Magistrate confirmed by the First Appellate Court with regard to the imposition of the fine amount of Rs.25,000/- towards the defraying expenses of the State is hereby set aside;



(iii) rest of the sentence stands unaltered.

Office is directed to return the trial court records with copy of this order forthwith for issue of modified conviction warrant.

Amount in deposit is ordered to be withdrawn by the complainant under due identification.

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

SS
List No.: 1 Sl No.: 25