KABC030181382019

Presented on : 12-03-2019
Registered on : 12-03-2019

IN THE COURT OF XXI ADDL.CHIEF JUDICIAL MAGISTRATE, BENGALURU

Dated this the 24rd day of July 2026

PRESENT
Sri. Parameshwara.P.J, B.Com.,LL.B.
XXI ACJM, Bengaluru

<u>CRIMINAL CASE NO.6007/19</u>

Complainant	:	**Magadi Kempegowda Credit Co.operative Society Ltd.,** No.2, Shri Bharathi, 1st floor, Vinayaka Extension, 1st stage, KHB colony, Magadi main road, Basaveshwaranagara, Bangalore - 560079. Rep.by its Chief Executive Officer Mr.K.Lokesh
(By Sri.TSC., Adv)		

V/s

Accused	:	**Lingaraju.R,** s/o.K.Ramanna, No.2/2, 7th main road, Meenakshinagar, Kamakshipalya, Bengaluru-560079.
(By Sri.YA., Adv.)		

J U D G M E N T

The complainant represented by its CEO filed this complaint u/s.200 of Cr.P.C., for the offence u/s.138 of N.I.Act.

2. The case of the complainant in brief is as follows:

That the accused is one of the members of the complainant's society and stood as surety to one Anandmurthy/subscriber who bid the chit. In that regard, the accused has issued the cheque bearing no.297349 dtd: 09/01/2019 for Rs.50,000/- drawn on Vijaya Bank, Basaveshwaanagar branch, Bengaluru in favour of the complainant and assured that the cheque will be honoured. Believing the words of accused, complainant presented the cheque for encashment with their banker Vijaya bank, Basaveshwaranagar branch, Bengaluru, but to the utter shock and surprise of the complainant, the cheque returned unpaid for the reason of 'Insufficient funds' vide return memo dtd: 10/01/2019. After receipt of memo the complainant got issued a legal notice on 11/01/2019 through RPAD to accused calling upon him to pay the cheque amount. The accused with an ulterior motive got endorsement returned as 'door locked' and managed the postal authority to return the legal notice. The accused is fully aware that he issued the cheque towards discharge of his legally recoverable debt and caused the cheque to be dishonoured and failed to pay the amount in spite of notice. Hence, the accused committed the offence u/s.138 of N.I.Act. Under these background, the complainant prayed to punish the accused for the offence u/s.138 of N.I.Act.

3. After taking cognizance of the offence, the sworn statement of the CEO of the complainant recorded and issued process to accused. On service of summons, the accused has appeared through his counsel and he has been enlarged on bail throughout the trial. The substance of accusation framed, read over and explained to the accused in the language known to him. He pleaded not guilty and claimed to be tried.

4. The affidavit filed in lieu of sworn statement has been treated as evidence in view of direction issued by Hon'ble Apex court in the case of Indian Bank Association and Others Vs.Union of India 2014 (5) SCC 59 and got the documents marked at Ex.P.1 to P.11.

5. Accused has been examined U/s 313 of Crpc after incriminating circumstances appearing against accused being read over and explained. He having denied the same has chosen to lead defence evidence. However,

the accused has neither cross examined PW1 nor adduced any evidence.

6. During the course of trial, the learned counsels for complainant and accused filed a joint memo on 17/07/2026 and prayed to pass considered judgment. When the court suggested the complainant and accused to settle the matter before Lok Adalath, they requested the court to pass considered judgment.

7. Now the following points arise for my consideration are :

1. ***Whether complainant has proved that accused issued a cheque bearing no.297349 dtd: 09/01/2019 for Rs.50,000/- drawn on Vijaya Bank, Basaveshwaanagar branch, Bengaluru in his favour towards discharge of legally recoverable debt/liability, cause it to be dishonored, failed to pay the amount despite notice and thereby he has committed the offence punishable U/s 138 of Negotiable Instrument Act?***

2. ***What order?***

8. My answers to the above points are as under:-

Point No.1 :- Partly in the **Affirmative**
Point No.2 :- As per final order

for the following :-

R E A S O N S

9. **Point No.1 :** It is the case of the complainant that the accused stood as guarantor to the member of complainant society, who bid the chit and issued a cheque for Rs.50,000/- towards outstanding loan and on presentation of the cheque, it came to be dishonoured for the reason of 'Insufficient funds' and accused failed to pay the amount inspite of legal notice issued by the complainant.

10. In order to prove its case, the complainant got examined its CEO as PW1 and got marked documents as Ex.P.1 to P.11. Ex.P.1 – cheque, Ex.P.2 – bank endorsement, Ex.P.3 – legal notice, Ex.P.4 - postal receipt, Ex.P.5 – returned postal cover, Ex.P.6 – Agreement, Ex.P.7 – Membership application, Ex.P.8 – On demand pronote, Ex.P.9 – Certificate of surety, Ex.P.10 - Ledger account and Ex.P.11 - Authorization letter. On perusal of oral and documentary evidence of PW1, it appears that by considering the request of accused, the complainant society has sanctioned the bid amount to subscriber. After availing bid amount, the subscriber not regular in payment and as on 09/01/2019, the subscriber and accused were due to pay Rs.50,000/-. When the

complainant society pressed for payment of loan, the accused has issued the cheque bearing no. ***297349 dtd: 09/01/2019 for Rs.50,000/- drawn on Vijaya Bank, Basaveshwaanagar branch, Bengaluru*** in favour of the complainant assured that the cheque will be honoured.

11. When the case posted for cross examination of PW1, the complainant and accused have amicably settled the matter and filed Joint Memo before the court and prayed to pass Judgment based on the Joint Memo. When the court suggested the parties to settle the matter before Lok Adalath they requested to pass the Judgment as it is beneficial in the interest of both parties.

12. On perusal of evidence of PW1 and Ex.P.1 to 11 reveals that there is no dispute in the fact that the accused stood as guarantor to the complainant society and has issued a cheque bearing no. ***297349 dtd: 09/01/2019 for Rs.50,000/-*** for discharge of legally enforceable debt and on presentation, the cheque came to be dishonoured for the reason of 'Insufficient Funds' and the bank has issued endorsement to the complainant. After receipt of endorsement, the complainant got issued a statutory notice to the accused on 11/01/2019 calling upon him to pay the amount and the notice was duly served on the accused. Since the accused failed to pay the amount, the complainant filed this complaint before this

court within limitation period. On the basis of the complaint, this court has taken cognizance and issued summons to the accused. On service of summons, the accused appeared through his counsel and got released on bail. When the case set down for cross examination of PW1, both the parties have entered into settlement and filed a Joint Memo and prayed to pass the Judgment.

13. In the Joint Memo, the complainant and accused have arrived at an amicable settlement for a sum of Rs.50,000/- towards full and final settlement. The accused has agreed to pay the amount on or before 18/01/2027 in 6 equal installments without fail and in default the complainant will be at liberty to take legal action against the accused. The Joint Memo is also approved by the counsels of complainant and accused. The Joint Memo is voluntary and there is no compulsion to enter into compromise. Since the accused admitted the entire case of the complainant, there is no need for the complainant to prove his case as admitted facts need not be proved as per section 58 of Indian Evidence Act. Even without looking into the Joint Memo, it appears that the complainant has complied all the statutory requirement required to constitute an offence u/s.138 of N.I.Act.

14. When the parties have entered into compromise knowing fully well the consequences of the case, it is necessary to consider the same. It is pertinent to note that the accused not only admits the issuance of cheque by him but also admitted his liability to pay the amount in future. The complainant has discharged his initial burden by producing cogent and reliable evidence. Hence, it is very much necessary to draw presumption u/s 139 of N I Act. When the complainant discharged his initial burden the burden of proof shift on the accused to disprove it. But the accused instead of disproving the case of complainant admits entire case. The presumed facts are required to be considered as true until evidential burden discharged by the accused. Therefore, by considering the overall materials available on record, the court is of the considered opinion that the complainant has successfully proved that the accused has issued a cheque bearing no.***297349 dtd: 09/01/2019 for Rs.50,000/- drawn on Vijaya Bank, Basaveshwaanagar branch, Bengaluru*** in its favour towards discharge of legally recoverable debt/liability, cause it to be dishonored, failed to pay the amount despite notice and now the accused settled for Rs.50,000/-. Accordingly, I answer point no.1 **partly in the Affirmative**.

15. **<u>POINT NO.2:-</u>** In view of my answer and reasons stated at Point no.1, I proceed to pass the following:-

<u>O R D E R</u>

The accused is found guilty of the offence punishable u/s.138 of N.I.Act and acting U/s.255(2) of Cr.P.C the accused is hereby convicted for the offence punishable under Section 138 of Negotiable Instruments Act.

The accused shall pay a fine of ₹50,000/- and in default of payment of fine amount, accused shall undergo simple imprisonment for a period of six months.

The fine amount ₹50,000/- shall be paid to the complainant as compensation as contemplated U/s 357(1) of CrPC.

The accused shall pay the said compensation amount as agreed in the joint memo.

The bail bond and surety bond stand canceled.

Office to furnish certified copy of the Judgment to the accused free of cost forthwith.

(Dictated to stenographer, transcribed by her, revised by me and then pronounced in open court on this the 24th day of July 2026)

(Sri. Parameshwara.P.J)
XXI Addl.Chief Judicial Magistrate,
Bengaluru.

ANNEXURE

LIST OF WITNESSES EXAMINED FOR COMPLAINANT:

P.W.1 - Sri.K.Lokesh

LIST OF WITNESSES EXAMINED FOR ACCUSED: NIL

LIST OF DOCUMENTS EXHIBITED FOR COMPLAINANT:

Ex.P.1	Cheque
Ex.P.2	Bank endorsement
Ex.P.3	Legal notice
Ex.P.4	Postal receipt
Ex.P.5	Returned Postal cover
Ex.P.6	Agreement
Ex.P.7	Membership application
Ex.P.8	On demand pronote
Ex.P.9	Certificate
Ex.P.10	Ledger account
Ex.P.11	Authorization letter

LIST OF DOCUMENTS EXHIBITED FOR ACCUSED: NIL

(Sri. Parameshwara.P.J)
XXI Addl.Chief Judicial Magistrate,
Bengaluru.