KACB010001832026

Presented on : 29-01-2026
Registered on : 29-01-2026
Decided on : 03-07-2026
Duration : 05 months 04 days

IN THE COURT OF PRL. DISTRICT AND SESSIONS JUDGE, AT : CHIKKABALLAPURA

Dated this the 3rd day of July 2026

Present
Sri. T.P.RAMALINGE GOWDA,
B.Sc., LL.M., M.B.A.
Principal District & Sessions Judge,
Chikkaballapura.

Criminal Appeal No.12/2026

APPELLANT/S:

Huchaiah
s/o Huchaiah,
aged about 73 years,
r/at #21/IC, Near Shobha
Nagamma Layout, Chokkasandra,
T.Dasarahalli,
Bengaluru – 560057.

(**Represented by Sri.S.N., Advocate**)

//Versus//

RESPONDENT/S:

R.Channakeshava
s/o late Ramappa,
aged about 52 years,
r/at Doddamarali village and post,
Nandi hobli,
Chikkaballapura taluk & District.

(**Represented by Sri.M.J.R., Advocate**)

JUDGMENT

This is an appeal preferred under Section 415 of BNSS by the accused in C.C.No.2011/2024 questioning the legality and correctness of the judgment of conviction and sentence, dated 09.01.2026 passed by the Prl. Civil Judge & JMFC, Chikkaballapura, wherein he had been convicted for the offence punishable under section 138 of Negotiable Instruments Act (Herein after referred in short as ***'NI Act'***) by the learned Magistrate.

2. For the sake of convenience, the parties are referred as per their rank before the trial court.

3. The necessary facts in brief of the complainant's case are as under:

The accused and complainant are known to each other. The accused has approached the complainant during the month of April 2024 and sought for financial assistance for a sum of Rs.6,00,000/- to fulfill his family and legal necessities. He has also assured the complainant that if aforesaid sum were lent, he would repay the same within three months. The complainant by taking into consideration long acquaintance with the accused paid a sum of Rs.6,00,000/- to him. At the time of receiving the said loan the accused had issued a post dated cheque bearing No.166650 for a sum of Rs.6,00,000/- drawn at Canara Bank, Peenya branch, dated 19.07.2024. As per the assurance of the accused the complainant presented the said cheque for encashment through his banker State Bank of India, Chikkaballapura branch on 19.07.2024. But the said cheque was dishonoured with an endorsement, dated 22.07.2024 that “Kindly contact drawer and please present again”. The said fact was brought to the notice of the accused. The acused has requested the complainant to re-present the said cheque again. On 02.08.2024 the complainant re-presented the said cheque. But the same was returned with an endorsement, dated 03.08.2024 “Kindly contract drawer and please present again”. Even after the said fact was brought to the notice of the accused, he was neglected to repay the amount due for complainant. Therefore, the complainant has issued a legal notice, dated 07.08.2024 demanding the repayment of loan rendered by him. The said notice was served on the accused on 10.08.2024. Even after receipt of the said notice the accused neither paid the amount nor replied to the notice issued by the complainant. Thus, the accused has committed an offence punishable under Section

138 of Negotiable Instruments Act. On these grounds complaint came to be registered.

4. Trial court after recording the sworn statement of complainant took cognizance and registered the case as C.C.No.2011/2024. In pursuance of service of summons, the accused appeared before the trial court and released on bail. His plea was recorded. Accused claimed to be tried.

5. In support of his case the complainant was examined as Pw.1 and got marked 5 documents as per Ex.P1 to P6.

6. After closure of complainant’s side evidence, accused has been subjected for examination as required under Section 313 of Cr.P.C. in order to enable him to offer any plausible explanation about the incriminating evidence and circumstances brought by the complainant against him during trial. Accused has denied the entire case of the complainant as false and he has chosen to lead defence evidence. In support of his case, the accused has been examined as Dw.1 and got marked two documents as per Ex.D1 and D2.

7. The learned Magistrate on appreciating the oral and documentary evidence found the accused guilty of the offence

punishable under Sections 138 of Negotiable Instruments Act. Accordingly, he has convicted the accused for the above said offence by sentencing him to pay fine of Rs.7,05,000/- and in default to undergo simple imprisonment for a period of six months. Further out of the said amount, Rs.7,00,000/- is ordered to be paid to the complainant and it was ordered to adjust Rs.5,000/- towards the exchequer.

8. Being aggrieved by the said judgment of conviction and sentence, it has been challenged by the appellant/accused on the following grounds:

It is contended that the judgment of conviction and sentence passed by the trial court is not maintainable either in law or on facts and the same is contrary to the evidence on record. The accused has disputed the signature on Ex.P1 cheque and issuance of cheque in favour of complainant. Therefore, the complainant has to prove that the signature on the cheque is belongs to accused and the accused had issued the said cheque. The complainant has not stated the date on which he lent the said hand loan to the accused. Except the cheque no documentary evidence has been produced to show that the complainant has lent an amount of Rs.6,00,000/- to the accused. The complainant has not stated in his complaint the mode of payment whether it was by way of cash or any other mode. However, he has stated in the cross-examination that he lent the loan by way of cash. The bank endorsement Ex.P3 shows the shara that “Kindly contact drawer, draww bank and please present again”, which does not attract the offence punishable under Section 138 of N.I. Act. The accused has rebutted the presumption under Sections 118 and 139 of N.I. Act by cross-examining the complainant. The complainant failed to substantiate the legally enforceable debt and liability. Hence, the accused is entitled for acquittal, but the same is not considered by the trial court. Therefore, he has prayed to allow the appeal.

9. Heard the arguments on both sides.

10. Being heard the arguments and perused the record, the points that arise for my consideration are:

> 1) Whether the complainant has proved his case beyond reasonable doubt that he has paid a sum of Rs.6,00,00/-, for which he has issued the impugned cheque, dated 19.07.2024 towards repayment of the said amount and the same is dishonoured and thereby he has committed an offence punishable under Section 138 of Negotiable Instruments Act?

2) Whether the appellant proves that the impugned judgment is not proper and correct and thereby calls for interference?

3) What order?

11. My finding to the above points are as follows;

Point No.1: ***In the Affirmative.***

Point No.2: ***In the Negative.***

Point No.3: As per final order, for the following;

REASONS

12. **Point No.1 & 2**:- As both the points are interconnected with each other, they are taken together for common discussion in order to avoid repetition of facts and evidence.

13. Before proceeding to appreciate the case and defence, it would appropriate to refer the provisions of law under Section 118 and 139 of Negotiable Instruments Act, which reads as under;

"118. Presumptions as to negotiable instruments.—Until the contrary is proved, the following presumptions shall be made:—

(a) of consideration:—that every negotiable instrument was made or drawn for consideration, and that every

such instrument, when it has been accepted, indorsed, negotiated or transferred, was accepted, indorsed, negotiated or transferred for consideration;

(b) to (f) *******

(g) that holder is a holder in due course:—that the holder of a negotiable instrument is a holder in due course: provided that, where the instrument has been obtained from its lawful owner, or from any person in lawful custody thereof, by means of an offence or fraud, or has been obtained from the maker or acceptor thereof by means of an offence or fraud, or for unlawful consideration, the burden of proving that the holder is a holder in due course lies upon him.

"139. Presumption in favour of holder.—It shall be presumed, unless the contrary is proved, that the holder of a cheque received the cheque of the nature referred to in section 138 for the discharge, in whole or in part, of any debt or other liability".

14. *Thus, meaningful reading of Section 118 of N.I. Act would indicates that the negotiable instrument like cheque, DP note and any other documents would carries presumption in their favour that they are issued for consideration. Presumption can also be drawn about the date, amount mentioned therein, the contents and signature of drawer*

etc. Similarly, Section 139 of N.I. Act would envisaged that, unless the contrary is proved court shall presume that every cheque is issued towards repayment of debt or liability in full or part. The said presumption is not a conclusive presumption, rather it is a rebuttable presumption and thereby it can be rebutted by the accused by offering any plausible explanation or by adducing proof that the said cheque was not issued towards repayment of debt or liability. Here it is worthy to mention that the standard of proof in respect of case of the complainant and defence of accused are not one and the same, rather it varies. ***Therefore, it is trite law that like that of prosecution, the complainant must be proved his case beyond reasonable doubts. Whereas accused is required to be established his defence on the principles of preponderance and probabilities and not on the principles of beyond reasonable doubt.***

15. *At the same time it is also required to be kept in mind that, as has been enunciated by the Hon'ble Apex Court in case of* ***Rangappa v. Mohan; 2010(11) SCC 441*** *and reiterated in catena of decisions,* ***"accused is need not bound to step into the witness box to give evidence in support of his defence. Rather he can very well demolish***

the case of the complainant on the basis of materials available on record or by eliciting admissions from the mouth of complainant, which are contrary to the complaint averments".

16. By keeping in mind the aforesaid provisions of law and well settled principles of law, let me critically examine the case of the complainant with that of defence set up by the accused. In this case the complainant examined himself as Pw.1 and reiterated the very averments of the complaint. He has produced 6 documents as per Ex.P1 to P6. Ex.P1 is the original cheque, dated 19.07.2024. Ex.P2 and P3 are the endorsements issued by the bank stating that "Kindly contact Drawer Drawee Bank and please present again". Ex.P4 is the copy of legal notice, dated 08.08.2024. Ex.P5 is the postal receipt and Ex.P6 is the postal track consignment record. All the above documents shows that the accused had borrowed a sum of Rs.6,00,000/- from the complainant and issued the impugned cheque, dated 19.07.2024 towards repayment of said amount. When the complainant presented the said cheque for encashment, the said cheque was returned unpaid with an endorsement "Kindly contact Drawer Drawee Bank and please present again". Even after issuance of legal notice, dated 08.08.2024

i.e., within the statutory period, accused failed to repay the said amount. Consequently, it can be held that, complainant has proved all the necessary ingredients of Section 138 of N.I. Act. In the result, presumption available under Section 139 of N.I. Act should required to be drawn in favour of complainant and accordingly, it was drawn by the trial court.

17. Though the accused has cross-examined Pw.1, nothing worth has been elicited to disprove the issuance of Ex.P1 cheque to the complainant towards repayment of the loan amount. Though it is suggested in the cross-examination that no document is executed at the time of payment of loan amount, Pw.1 has clarified that, no document was executed as the accused had issued the cheque.

18. On the otherhand, the accused was examined himself as Dw.1 before the trial court and deposed that there was no need to avail loan from the complainant as he is getting a pension of Rs.38,000/-. Further he has stated that the complainant was doing money lending busienss and giving loans to his children and therefore, he had warned him not to give any loan to them. In that regard the complainant has filed a false case against him. Further stated that he had registered a complaint

against the complainant for lodging a false private complaint against them. He has also produced copy of the complaint and NCR and got marked the said documents as per Ex.D1 and D2.

19. Except the above said documents the accused has not produced any other documents to show that he is not in need of availing any loan from the complainant and he doesn't know the complainant. Infact, in his cross-examination Dw.1 admitted about the legal notice issued by the complainant and also admitted that he has not given reply to said legal notice. Although accused has denied his signatures on vakalath and Ex.P1 cheque, he never stated that Ex.P1 cheque is not pertaining to his account. As such, it can be inferred that Ex.P1 is pertaining to the account of accused. Further on comparison of signatures of the accused on vakalath, Ex.P1 cheque, plea of the accused and Section 313 of Cr.P.C. statement of the accused, all the signatures tallied with each other. What is significant to appreciate is that, accused never set up any defence about how the impugned cheque was reached the hands of complainant, if at all he has not issued the same towards repayment of loan. In the absence of any such defence it can be held that the accused is miserably failed to substantiate his

defence. In the absence of such probable defence this court has no other option except to hold that accused has issued the impugned cheque towards repayment of dues towards him as provided under Section 139 of NI Act.

20. That apart, during cross-examination of Pw.1 it is suggested and argued that complainant has no source of income. Whereas during evidence the accused himself deposed that complainant was doing money lending business and his children are also used to borrow money from the complainant. That itself shows that complainant has sufficient source of income. Further accused has contended that, complainant has filed this case in collusion with his father-in-law. But accused failed to demonstrate what is the enemity between himself and father-in-law of complainant. Viewed from any angle the defence set up by the accused is not probable. Moreover, accused is not an ordinary citizen. Because he has rendered service for more than 30 years in the police department. Inspite of that, he has not issued reply to the legal notice by raising his defence, which shows that accused has taken false defence before the court as an afterthought just to escape from his liability. Being

appreciated all these crucial aspects the trial court has rightly believed the case of the complainant and accordingly convicted the accused.

21. For the detailed discussions made above and conclusion arrived, in the considered opinion of this court the appellant/accused has not at all made out any legal grounds to interfere with the impugned judgment. At this juncture, I would like to mention the ratio laid down by the Hon'ble Apex Court that ***"Where the appellate court agrees generally with the view of trial court, it is not necessary for the appellate court to repeat the narration of the evidence or to reiterate reasons given by trial court" as has been held in State of Karnataka v/s Hema Reddy AIR 1981 SC 1417.*** In view of the same, this court has not discussed the findings and the reasons assigned by the Trial court. Rather, this court being the first appellate court has re-appreciated the facts and evidence available on record in the light of the settled principles of law. In the result, the impugned judgment is well considered and well reasoned one, thereby this court finds no reasons to interfere with the impugned judgment. Consequently, the same is required to be confirmed. On the otherhand, appeal being sans merit

liable to be dismissed. ***Accordingly, point No.1 is answered in the affirmative and point No.2 is answered in the negative.***

22. **Point No.3**: In view of my findings on point No.1 and 2, I proceed to pass the following;

ORDER

Appeal filed by the appellant/accused under Section 415 of BNSS, 2023 is hereby dismissed.

Consequently, the judgment of conviction and sentence passed by the Prl. Civil Judge & JMFC, Chikkaballapura in C.C.No.2011/2024, dated 09.01.2026 is hereby confirmed.

Send back the trial court records along with a copy of this judgment.

(Dictated to the STENOGRAPHER GRADE-I directly on computer, revised and corrected by me, signed and then pronounced in the Open Court on this the 3rd day of July 2026)

T P RAMALINGE GOWDA
Digitally signed by T P RAMALINGE GOWDA
Date: 2026.07.10 16:10:53 +0530

(T.P.RAMALINGE GOWDA)
Prl. District and Sessions Judge,
Chikkaballapura.