



**IN THE COURT OF THE SR.CIVIL JUDGE & JMFC., AT**  
**SIDLAGHATTA**

Dated this the 9<sup>th</sup> day of April-2026

**:PRESENT:**

SRI. **MOHAMMED ROSHAN SHA.**, MA. L L B.,  
Sr. Civil Judge and JMFC.,  
Sidlaghatta

**C.C.624/2021**

**COMPLAINANT :** Smt.Papamma  
W/o B.N.Lakhamanappa  
Aged about 72 years  
R/at Handiganala village  
Kasaba Hobli  
Sidlaghatta Taluk  
Chikkaballapura District

**(Rep by C.K.V., Advocate)**

**V/s**

**ACCUSED :** Smt.Soumya Deepak  
W/o Deepak Rao  
Aged about 46 years  
R/at No.28, 3<sup>rd</sup> cross  
2<sup>nd</sup> stage Mico Layout  
Aricere, Bangalore 76

**(Rep by S.N.C Advocate)**

**J U D G M E N T**

The complainant has filed private complaint under section 200 of Cr.P.C., against the accused for the offence punishable under section **138 of Negotiable Instruments Act.**

**2.** The brief case of the complainant is that, the complainant and accused are well known to each other since several years. In

lieu of the above said relation, the accused approached to complainant on 15/07/2021 for financial assistance for the purpose of her legal necessities and turn over of accused's business. The accused approached the same at resident of complainant. The complainant has paid amount for Rs.3,00,000/- to the accused on dated 25/07/2021. Thereafter the accused issued cheque bearing No.000010 drawn at Kotak Bank, JP Nagar, Bangalore Branch by putting post dated 25/07/2021 at the cheque. The complainant has presented the said cheque through his bank SBI Bank Sidlaghatta on 25/08/2021. But the said cheque dishonored for the reason funds insufficient on dated 27/08/2021 and accordingly complainant got endorsement from the bank. Thereafter the complainant got issued legal notice to the accused on 21/09/2021 and calling upon accused to repay the said cheque amount. The said notice duly served on 23/09/2021. inspite of it the accused not replied nor repaid the amount. So the complainant has filed this complaint and prays to allow the same.

**3. After taking cognizance, the accused appears through his counsel and obtained bail from the court. The plea of the accused has recorded but the accused has pleaded not guilty and claimed to be tried.**

4. During the course of trial the complainant examined as PW-1 and got marked Ex.P1 to Ex.P5.

5. The statement of accused under section 313 of Cr.P.C., has recorded. She was denied all incriminating evidence against her. The accused examined herself as DW1 and got marked Ex.D1 to Ex.D12 documents.

6. Heard the Counsel for the complainant and accused.

**7. The following points arise for my consideration :-**

**1. Whether the complainant proves that the accused issued cheque bearing No.000010 dated 25/08/2021 drawn on her bank account maintained Kotak Bank, JP Nagar, Bangalore Branch, in favour of the complainant for a sum of Rs.3,00,000/- and the said cheque has dishonored on dated 27/08/2021?**

**2. Whether the complainant proves that, the legal notice dated 21/09/2021 issued to the accused and in spite of service of legal notice, the accused has not repay the cheque amount and thereby the accused committed**

**an offence punishable under section 138 of  
Negotiable Instrument Act ?**

**3. What order ?**

**8.** After going through the records and hearing of the parties, the above points are as follows:-

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

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

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

**REASONS**

**9. POINT NO.1 and 2 :-** As these points are inter connected to each other, Hence, they have taken together for common discussion.

**10.** The complainant has examined himself as PW-1 and got marked Ex.P1 to Ex.P5. Ex.P1 is the cheque bearing No.000010 dated 25/08/2021, Ex.P2 is Endorsement, Ex.P3 is the legal notice, Ex.P4 is the postal receipt, Ex.P5 is the postal acknowledgment.

**11.** It has specifically contended by the PW1 that, the complainant and accused are well known to each other since several years. In lieu of the above said relation, the accused approached to complainant on 15/07/2021 for financial assistance for the purpose of her legal necessities and turn over of accused's business. The accused approached the same at resident of

complainant. The complainant has paid amount for Rs.3,00,000/- to the accused on dated 25/07/2021. Thereafter the accused issued cheque bearing No.000010 drawn at Kotak Bank, JP Nagar, Bangalore Branch by putting post dated 25/07/2021 at the cheque. In order to substantiate the said fact, the PW1 got marked said cheque at Ex.P1, wherein the accused has executed said cheque in favour of complainant for Rs.3,00,000/-. The complainant has presented the said cheque through his bank SBI Bank Sidlaghatta on 25/08/2021. But the said cheque dishonored for the reason **refer to drawer** on dated 27/08/2021 at Ex.P2. But the complainant pleaded that funds insufficient. Even though the endorsement at Ex.P2 shown the reason that **refer to drawer**. It amounts that the said cheque has dishonored. After got said endorsement, the complainant got issued legal notice to the accused on 21/09/2021 at Ex.P3 and calling upon to the accused for repay the said cheque amount. The said notice duly served on 23/09/2021 as per postal acknowledgment at Ex.P5. So it has prima faicely indicate that the accused has executed said cheque in order to discharge for Rs.3,00,000/-. But the said cheque dishonored and complainant got issued legal notice to the accused even service of said notice, the accused has failed to repay the said amount nor reply the notice. During cross examination of PW1

deposed that ಹಣ ಕೊಡುವಾಗ ನಾನು ಮತ್ತು ನನ್ನ ಗಂಡ ಮತ್ತು ಆರೋಪಿತಳು ಇದ್ದೆವು. 3 ಲಕ್ಷ ಹಣವನ್ನು ಬ್ಯಾಂಕಿನಿಂದ ತಂದಿದ್ದೆನು ಹಣದ ಮುಖ ಬೆಲೆ ನೆನಪಿಲ್ಲ. ಏನೆಂದು ಹಿಂಬರಹ ನೀಡಿರುತ್ತಾರೆ ಎಂದನನಗೆ ಗೊತ್ತಾಗುವುದಿಲ್ಲ. It has urged by the accused counsel that there has endorsement given by bank for the reason **refer to drawer**. But the complainant pleaded funds Insufficient. According to Section 138 of NI Act

**Section 138 in The Negotiable Instruments Act, 1881**

**138. Dishonour of cheque for insufficiency, etc., of funds in the account.—**

***Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in part, of any debt or other liability, is returned by the bank unpaid, either because of the amount of money standing to the credit of that account is insufficient to honour the cheque or that it exceeds the amount arranged to be paid from that account by an agreement made with that bank, such person shall be deemed to have committed an offence and shall, without prejudice to any other provisions of this Act, be punished with imprisonment for a term which may be extended to two years, or with fine which may extend***

***to twice the amount of the cheque, or with both: Provided that nothing contained in this section shall apply unless—***

***(a) the cheque has been presented to the bank within a period of six months from the date on which it is drawn or within the period of its validity, whichever is earlier;***

***(b) the payee or the holder in due course of the cheque, as the case may be, makes a demand for the payment of the said amount of money by giving a notice in writing, to the drawer of the cheque, [within thirty days of the receipt of information by him from the bank regarding the return of the cheque as unpaid; and***

***(c) the drawer of such cheque fails to make the payment of the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice.***

***Explanation.—For the purposes of this section, “debt or other liability” means a legally enforceable debt or other liability.]***

12. In view of said provision of law wherein held that where any cheque drawn by a person an account maintained by him with

a banker for payment of any amount of money to another person from out of that account for discharge, in whole or in part, of any debt or other liability, his returned by the bank as unpaid. So it has sufficient to constitute the alleged offence that the said cheque has unpaid from the bank account of accused person. So in the present case the cheque at Ex.P1 has return to the complainant with a shara at Ex.P2 that **refer to drawer** has amount that the said cheque has returned by the bank unpaid. Mere mentioning the word funds insufficient at the complaint has not discredit the veracity of the Ex.P1 and Ex.P2.

13. Further the PW1 deposed in her cross examination ನನ್ನ ಮಗಳು ಆರೋಪಿತಳ ನಡುವೆ ಚೀಟಿ ವ್ಯವಹಾರ ಇತ್ತು ಎಂದರೆ ನನಗೆ ಗೊತ್ತಿಲ್ಲ. ಚೀಟಿ ನನ್ನ ಮಗಳು ನಡೆಸುತ್ತಾಳೆ ಎಂದರೆ ಗೊತ್ತಿಲ್ಲ. ಚೀಟಿ ವ್ಯವಹಾರದಲ್ಲಿ ಆರೋಪಿತಳು ನನ್ನ ಮಗಳಿಗೆ 3 ಚೆಕ್‌ಗಳನ್ನು ಕೊಟ್ಟಿರುತ್ತಾಳೆ ಎಂದರೆ ಗೊತ್ತಿಲ್ಲ. ನನ್ನ ಮಗಳು ಆರೋಪಿತಳಿಗೆ 78 ಲಕ್ಷ ರೂ ಹಣ ಕೊಡುವ ಬಗ್ಗೆ ಆರೋಪಿತಳು ಓಎಸ್ ನಂ 5131/22 ಸಲ್ಲಿಸಿರುತ್ತಾಳೆ ಎಂದರೆ ಗೊತ್ತಿಲ್ಲ. ಆರೋಪಿತಳು ಕೇಸು ಹಾಕಿದ ನಂತರ ನನ್ನ ಮಗಳು ಭದ್ರತೆಗೆ ಕೊಟ್ಟ ಚೆಕ್‌ನ್ನು ಈ ಕೇಸನ್ನು ಹಾಕಿಸಿರುತ್ತಾರೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. So it has taken defense from the accused that the alleged cheque has given to the complainant's daughter for security purpose of chit transaction held between accused and complainant's daughter. In order to substantiate the said fact, the accused examined herself as DW1 and got marked Ex.D1 to Ex.D13 documents.



14. It has contended by the DW1 that the complainant and her husband and her daughter Kathyayni were having habit of borrowing hand loans from the accused. The complainant borrowed Rs.35,000/- from accused. Similarly the complainant's husband also borrowed Rs.1,87,000/- from the accused and they have failed to repay the same with interest. Further the complainant's daughter Kathyayini has borrowed Rs.30,48,000/- from accused on 10/08/2021. The said daughter has runs a private chit, wherein the accused was one of the member of said chit. The accused has obtain amount from the said chit and for security purpose given some cheques belonging to Kotak Mahindra Bank. Out of the said cheques one Cheque has misused in the name of complainant and falsely claim Rs.3,00,000/-. But during the cross examination of accused person has deposed that ನಾನು ಸಲ್ಲಿಸಿದ ಓಎಸ್ **5131/22** ದಾವೆಯು ದಿನಾಂಕ **08/01/2025** ರಲ್ಲಿ ವಜಾ ಆಗಿದೆ ಎಂದರೆ ಸಾಕ್ಷಿ ನಾನು ಆ ದಾವೆ ಯಲ್ಲಿ ನ್ಯಾಯಾಲಯದ ಹೊರಗೆ ರಾಜಿ ಮಾಡಿಕೊಳ್ಳುವ ಉದ್ದೇಶದಿಂದ ಹಾಜರಾಗಿರಲಿಲ್ಲ ಹಾಗಾಗಿ ಅದು ವಜಾ ಆಗಿದೆ. Further deposed in her cross examination that, ನನ್ನ ಮುಖ್ಯವಿಚಾರಣೆ ಪ್ರಮಾಣಪತ್ರದಲ್ಲಿ ಪರ್ಯಾಯದಾರಳಾದ ವಾಪಮ್ಮ ರವರು ನನ್ನ ಬಳಿ ರೂ **35,000** ಹಣವನ್ನು **24%** ಬಡ್ಡಿಯಂತೆ ಪಡೆದುಕೊಂಡಿದ್ದಳು ಎಂಬ ವಿಚಾರವನ್ನು ತಿಳಿಸಿದ್ದೇನೆ ಎಂದರೆ ಸರಿಯಲ್ಲ ಅದೇ ರೀತಿಯಲ್ಲಿ ನನ್ನ ಮುಖ್ಯವಿಚಾರಣೆ ಪ್ರಮಾಣ ಪತ್ರದಲ್ಲಿ ತಿಳಿಸಿರುವಂತೆ ವಾಪಮ್ಮ ರವರ ಗಂಡ ಲಕ್ಷ್ಮಣ ಎಂಬುವವರು ಕೂಡ ನನ್ನ ಬಳಿ ರೂ **1,87,000** ಹಣವನ್ನು **24%** ಪಡೆದುಕೊಂಡಿದ್ದರು ಎಂಬ ವಿಚಾರವನ್ನು ತಿಳಿಸಿದ್ದೇನೆ ಎಂದರೆ ಸರಿಯಲ್ಲ. The accused herself denied the above

said transaction held between the complainant and complainant's husband and accused. But in her chief examination she has deposed the said loan transaction held with complainant and complainant's husband. So the accused herself deposed contrary to her chief examination.

15. Further the accused has got marked Ex.D1 to Ex.D3 are certified copies of order sheet, plaint, written statement, deposition for OS.No.5131/2022. On perusal of the said documents, wherein the present accused filed suit against one Kathyayini Venugopal for recovery of amount Rs.78,06,720/- with interest. It has alleged in the said plaint averments that, the plaintiff has running Sindhura Passion Boutque in Arikere Mico Layout. The defendant Kathyayni came as as customer and become familiar to the accused. Thereafter the said defendant has borrowed amount from 2016 to 2021 from accused and promise to repay the said amount with interest. But the said defendant has failed to do so. Thereafter the accused has demanded her money from above said defendant, then she lodge false complaint before the Puttenahalli police. It has contended under the plaint averments at Ex.D2 at Para 5 that the said police by coersive method have also collected 10 blank cheques pertain to plaintiff (present accused) of Axis Bank, Arekere Branch, Bangalore handing over those cheques to Mr.Chirantan.

But in the said suit the accused has not pleaded about the fact of present cheque at Ex.P1. Furthermore in the present case the accused took defense that the complainant's daughter has obtained cheques of Kotak Mahindra Bank belongs to the accused for security purpose of chit transaction. So the accused has took different kind of version or defense in the present case and in the alleged OS.No.5131/2022 at Ex.D2. Wherein stated about Axis Bank. But in the present case stated about Kotak Bank. Further the DW1 admitted during her cross examination that the said suit has dismissed. So the accused has failed to established her defense that she has lend loan amount to the complainant or her husband or her daughter. Further failed to prove the fact that the alleged cheque issued in faovur of complainant's daughter namely Kathyayini for security purpose of alleged chit transaction. Because the accused has never pleaded in the said Civil suit about the alleged chit transaction. Further the accused has got marked bank statements at Ex.D5 to Ex.D8 in order to shown the alleged loan transaction with complainant or her husband and her daughter. But during the cross examination of the accused, she admitted that ನಿಡಿ 5 ರಿಂದ 8 ಬ್ಯಾಂಕ್ ಸಂಬಂಧ ದಾಖಲೆಗಳು ದಿನಾಂಕ **15/07/2021** ಕ್ಕಿಂತ ಮೊದಲಿನ ಸಂಬಂಧದ ದಾಖಲೆ ಎಂದರೆ ಸಾಕ್ಷಿ ನನಗೂ ಮತ್ತು ಕಾತ್ಯಾಯಿನಿ ಎಂಬುವರಿಗೆ **2012** ರಿಂದ ಹಣದ ವ್ಯವಹಾರ ನಡೆಯುತ್ತಿರುವ ಕಾರಣದಿಂದ ನಾನು ಆ ದಾಖಲೆಗಳನ್ನು ನೀಡಿದ್ದೇನೆ ಎಂದು ನುಡಿಯುತ್ತಾರೆ. So

it disclosed the fact that the account statement have pertaining to the transactions before alleged transaction of this complainant case. Because the complainant alleged that on 15/07/2021 the accused approached to her and obtain loan for Rs.3,00,000/- and executed cheque at Ex.P1. So the Ex.D5 to Ex.D8 have not helpful to the contention raised by the accused. The learned counsel for accused filed written argument and submitted that the complainant and her husband and her husband having habit to borrowed loan from accused for interest and they have failed to repay the said loan amount. Further submit that the daughter of complainant namely Kyathayeni has run chit transaction and during said chit transaction obtain certain cheques from accused for security purpose. It has submitted that, there has no such financial transaction for Rs.3,00,000/- held between the complainant and accused. But during the cross examination of the accused admitted that ನಾನು ಈ ಪ್ರಕರಣದ ಆಗುವ ಮೊದಲಿನಿಂದಲೂ ಪರ್ಯಾಯದಾರ ಬಳಿ ಹಣದ ವ್ಯವಹಾರ ಮಾಡುತ್ತಿದ್ದೇನೆ ಎಂದರೆ ಸರಿ. Initially she has deposed that the complainant has obtain loan for Rs.35,000/- from accused but same has denied in her cross examination. So through the Ex.D5 to Ex.D8 the accused has failed to prove the alleged transaction held between accused and complainant or her husband or her daughter as alleged under defense. Furthermore the accused has

admitted that the said cheque belongs to her account and signature is also belongs to herself. There has no such material evidence from accused to ascertaining the alleged chit transaction held between complainant's daughter and accused. In the absence of such material evidence it has not possible to considering the defense that the said alleged cheque issued for security purpose of chit transaction.

16. The learned counsel for accused has filed written argument and urged that during the cross of PW1 admitted that the complainant do not known income of the accused and it has also admitted that, the complainant's husband is karth of family. The complainant and her husband well known to each other transactions. But the said deposition of the PW1 has not discredit the evidence of complainant. Further the accused counsel has produced memo dated 12/02/2026 along with transaction list held with husband of complainant on various dates. Wherein shown that from 05/05/2020 to 27/02/2021 on various dates the accused paid amount to the complainant's husband namely Lakshamana in totally 2,12,500/- and also urged that Rs.35,000/- paid to the complainant through bank. But it has already discussed above supra that the accused herself admitted during her cross examination that there has no such loan transaction for

Rs.35,000/- and 1,87,000/- held with complainant and her husband as stated above supra. So the argument urged by the accused counsel has no water.

17. According to Section 139 of NI Act. ***It shall be presumed, unless the contrary is proved, that the holder of cheque receive the cheque of the nature referred to in section 138 for the discharge, in whole or in part, of any debt or other liability.*** There has material evidence placed by the complainant that, the said cheque executed from accused in favour of complainant. The presumption under section 139 of said Act has in favour of the complainant that, the said cheque executed to discharge any debt or other liability. So the burden lies upon the accused to rebut the said presumption with cogent material.

18. According to Section 138(a) to (c) of the Negotiable Instrument Act. It has specifically mandates that, the cheque has been presented to the bank within a period of three months from the date on which it is drawn or within the period of its validity. The payee or the holder in due course of the cheque makes a demand for the payment of the said amount of money by giving a notice in writing to the drawer of the cheque within 30 days. The drawer of such cheque fails to make the payment of

the said amount of money to the payee or, as the case may be, to the holder in due course of the cheque, within fifteen days of the receipt of the said notice. Then the cause of action arose and the accused person has amount to commit an offence punishable under section 138 of NI Act. In the present case the complainant has presented the said cheque at Ex.P1 within period of validity. Further obtain endorsement about dishonor of the cheque at Ex.P2 and got issued notice to the accused as per clause (b) of Section 138 of NI Act at Ex.P3. The accused has failed to fulfill the cheque amount even service of notice. Further the accused has not initiated any positive action against the complainant like filing a police complaint or filing the civil proceedings in respect of the alleged misuse of the cheque. In view of said presumption available under law that, unless the contrary is proved, it shall be presumed that the complainant has received the cheque for discharge in whole or in part of any debt or other liability. In order to the rebut the presumption available under law, the accused has not produce any cogent material to rebut the said presumption. The Section 138 of NI Act specifically speak that Where any cheque drawn by a person on an account maintained by him with a banker for payment of any amount of money to another person from out of that account for the discharge, in whole or in

part, of any debt or other liability. So in the present case the oral and documentary evidence placed by the complainant demonstrated that the alleged cheque at Ex.P1 has drawn by the accused person on account maintained by him with bank and the said cheque executed for repayment of loan amount to the complainant out of his account maintained in the drawer bank. So the material evidence placed by the complainant along with other evidence, which has constitute the fact that, the accused person has committed an offence punishable under section 138 of NI Act. Other side accused has failed to rebut the presumption available in favour of the complainant. In view of the fact and circumstances available on record. I hold Point No.1 and 2 in **AFFIRMATIVE.**

**19. POINT NO.3:-** For the aforesaid reason and discussion, I proceed to pass the following:

**: O R D E R :**

**Accused has convicted under section 255(2) of Cr.P.C., for the offence punishable under section 138 of Negotiable Instruments Act.**

**Accused has sentenced to pay fine of Rs.3,05,000/-. In default thereof**



**accused shall under go simple imprisonment for 6 months.**

**Acting under section 357(3) of Cr.P.C it has ordered that, Rs.3,00,000/- shall be paid to the complainant as compensation out of the said fine amount.**

**Supply free copy of the Judgment to the accused.**

(Dictated to the Stenographer directly on computer typed by her corrected by me, and then pronounced in the open court on this the 9<sup>th</sup> day of April 2026).

**(MOHAMMED ROSHAN SHA)  
SR.Civil Judge & JMFC.,  
Sidlaghatta**

### **ANNEXURE**

**The list of witnesses examined on behalf of complainant:-**

PW1 : Smt.Papamma

**The list of documents exhibited on behalf of complainant:-**

Ex.P1 : Cheque  
Ex.P2 : Endorsement  
Ex.P3 : Legal notice dated 06/06/2023  
Ex.P4 : Postal receipt  
Ex.P5 : Postal acknowledgment.

**The list of witnesses examined on behalf of Accused:-**

DW1 : Sri.Somya Deepak

**The list of documents exhibited on behalf of the accused:**

Ex.D1 : Certified copy of order sheet for OS.No.5131/2022  
Ex.D2 : Certified copy of plaint for OS.No.5131/2022  
Ex.D3 : Certified copy of written statement for OS.No.5131/2022  
Ex.D4 : Certified copy of deposition for OS.No.5131/2022  
Ex.D5 to 8 : Account statements  
Ex.D9 : Notice  
Ex.D10 : Postal acknowledgment

Ex.D11 : Postal receipt  
Ex.D12 : Certified copy of aadhar card

**SR. Civil Judge & JMFC.,  
Sidlaghatta**

