

KACD510003942018



**IN THE COURT OF PRL. CIVIL JUDGE AND JMFC,
HOSADURGA**

**Presided Over by: Sri. PRASANNA KUMAR C.
B.A.L.,LL.B.,
Prl.Civil Judge & JMFC, Hosadurga.**

Dated this the 7th day of February, 2026

C.C. No.120/2018

BETWEEN:

Sri.Guru Oppathina Pattina Sahakara Sangha
Niyamitha, Hosadurga Branch

.....Complainant.

(By Sri. H.N.Madhusudhan Advocate for Complainant)

AND:

Sri. K.Dhananjaya
S/o Late A.N.Kadurappa

.. Accused

(Sri. H.Lakshmi Narayana, Advocate for Accused)

ORDERS ON IA No.I

This application is filed by the accused after completion of his cross-examination as DW-1. This application is filed by the accused under Section 91 of Criminal Procedure Code seeking for directions to the complainant to produce the following documents

from its custody:

1. Certified copy of entire pass sheets of SB Account No.3479/SB of the accused persons.
2. Certified copy of audit report since for the year 2012 to 2015
3. Certified copy of the ledger which maintain by the said bank with respect to the SB account No.3479/SB
4. Entire statement of loan account.

2. It is contended in the application that in this case after appearance of the accused, the plea was recorded. The accused has pleaded not guilty. Hence, evidence of complainant was recorded. During the course of cross-complainant of PW-1 he has admitted that the documents sought for production in this application are within his custody and he is ready to produce the said documents before the court. The said documents are very much essential and necessary for the case to prove the case of accused. Hence, the accused has filed this application seeking directions to the complainant to produce the above said documents.

3. The complainant has filed objections to the application stating that since evidence of both side parties is concluded, at this stage of the case the production of documents as sought for does not arise. It is also contended by the complainant that entire statement of the loan account of accused is already produced and exhibited in the evidence. The production of the audit report for the year 2012 to 2015 is hit by provisions of the Banker's Book

Evidence Act 1891. But certified copy of entire pass sheets of SB account No.3479/SB is already obtained by the accused from the complainant society and hence it is the duty of accused to produce the said document for rebutting evidence of the complainant. Therefore, the complainant has sought for dismissal of the application as not maintainable.

4. Basing on the application and objection statement, the following points would arise for consideration of this court.

Points

1. Whether the accused has made out grounds to issue directions to the complainant to produce the documents as sought for?

2. What Order ?

5. Heard arguments. On the basis of application, objection statement and all the materials available on record, answer of this court to the above Points is as under:

Point No.1: In the Negative

Point No.2: As per final order
for the following:

REASONS

6. **Point No.1:** This complaint is registered by the complainant against the accused for commission of the offence punishable

Under Section 138 of Negotiable Instruments Act. As stated by the complainant and accused, the evidence of both side parties is already concluded. Now the present application is filed seeking directions to the complainant to produce certain documents such as Pass sheets of SB account No.3479/SB of accused, audit report for the year 2012 to 15, copy of ledger pertaining to SB account No.3479/SB, entire statement of loan account of accused. On perusal of the evidence, pass sheets pertaining to SB account No.3479/SB from 28.01.2012 to 03.08.2017 is already produced and marked through accused/DW-1 as Ex.P-17 during the course of his cross-examination on confrontation. Likewise, the loan account of accused bearing No.2787 is also marked as Ex.P-18 on confrontation of the accused/DW-1. As such, the purpose for production of ledger maintained by the complainant bank and production of SB account pertaining to accused does not arise as the same are already available on record. However, the learned counsel for complainant argued that the audit report of the bank cannot be produced in view of bar under the provisions of Banker's Book Evidence Act 1891. Though the said provision makes it clear that bank officers cannot be compelled to produce books in case where the bank is either party or not unless ordered by the court. In the facts and circumstances of the case this court has not satisfied with the grounds urged by the accused to direct the complainant to produce the audit report. He could rebut the evidence of complainant basing on the materials available on record.

7. Further on going through the evidence available on record, this court is also of the opinion that calling for audit report for the year 2012 to 2015 is not warranted. This court can come to proper conclusion on merits of the case from the materials available on record. Therefore, the accused has not made out any ground to issue directions to the complainant to produce the documents as sought for. The application is devoid of any merit and the same deserves to be rejected. Accordingly, this court answered Point No.1 in the **Negative**.

8. **Point No.2:** For the foregoing reasons and discussions made above, this court proceed to pass the following:

ORDER

- IA No.I filed by the accused under section 91 of Code of Criminal Procedure is hereby rejected.
- No order as to costs.

(Dictated to the stenographer, transcribed by her, transcription corrected by me and then pronounced in the open court on this the 7th day of February, 2026)

Sd/-
(Prasanna Kumar C.)
Prl. Civil Judge & JMFC,
Hosadurga.