



**IN THE COURT OF THE I ADDL. CIVIL JUDGE & JMFC,
MUDIGERE**

PRESENT: Smt. Suraksha K.K. B.B.M.,LL.B.,
I Addl. Civil Judge & JMFC.,
Mudigere.

DATED THIS THE 09th DAY OF JULY 2026

CRIMINAL CASE NO:288/2019

BETWEEN :

P. Subramanya Rao,
Aged about 44 years,
S/o P.Venkata Rao,
R/o K.M.Road, Kalasa,
Kalasa Hobli and Post,
Mudigere Taluk.

...Complainant

(By Sri.G.B.Venkatesh, Adv.,)

AND :

Kumara Swamy N.
Aged about 43 years,
S/o Narasimha Murthy,
R/o Kela Magalu,
Kalasa Hobli and Post,
Mudigere Taluk.

... Accused

(By Sri.H.G.Adarsha, Adv.,)

JUDGMENT

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

2. It is the case of complainant that the accused has availed a loan of ₹10,00,000/- from the complainant and towards the repayment of the said loan the accused has issued a post dated



cheque bearing No.044923 dated 18.06.2018 drawn on Syndicate Bank, Kalasa Branch.

3. The complainant presented the said cheque for encashment through State Bank of India, Kalasa Branch. But the said cheque has been dishonored and returned with an endorsement "Funds Insufficient" dated 21.08.2018. Thereafter, the complainant informed the accused about the dishonor of the cheque and also issued legal notice to the accused on 29.08.2018 by RPAD. The legal notice was served to the accused on 18.09.2018, but the accused failed to reply the said notice or pay the amount to the complainant in spite of issuance of notice. Thereby the accused has committed an offence punishable under Section 138 of Negotiable Instruments Act.

4. Thereafter, the complainant filed affidavit by way of sworn statement and also marked documents as per Ex.P1 to 7 on the same day this Court has took cognizance for the said offence and registered the criminal case against the accused and issued summons to the accused.

5. On issuance of summons the accused person appeared before the Court through his counsel and enlarged on bail. The



substance of accusation is read over and explained to the accused for which he pleaded not guilty and claimed to be tried.

6. Sworn statement of complainant is treated as examination in chief of PW1 and the documents at Ex.P1 to P7 are treated as part of complainant evidence and further examined PW2 in support of his case. After closure of complainant evidence, the incriminating substances appearing against the accused is read over to him and his statement is recorded as required under Section 313 of Cr.P.C. Accused has denied the incriminating substances appearing against him. On the other hand, there is no oral and documentary evidence on behalf of the accused.

7. Heard the arguments addressed by the learned counsels for both side and also perused the entire materials available on record. Now, the points that arise for consideration are as follows:

- 1. Whether the complainant proves that, he has complied all mandates of proviso to Section 138(a) to (c) and Section 142(b) of N.I.Act?**
- 2. Whether the complainant proves beyond all reasonable doubt that, the accused had issued a cheque bearing No.044923 dated 18.06.2018 drawn on Syndicate Bank, Kalasa Branch in favor**



of complainant towards the repayment of amount due in favour of the complainant, when presented by the complainant through his banker, came to be dishonored with an endorsement “Insufficient Funds” and despite issuance of legal notice, the accused failed to pay amount covered under the cheque and thereby accused has committed the offence punishable under Section 138 of Negotiable Instruments Act?

3. What order?

8. The findings of this court on above points are as under:

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: The complainant in order to prove his case got examined himself as PW-1 and filed affidavit in lieu of his examination in chief and reiterated the complaint averments and in support of his oral evidence got marked Ex.P-1 to Ex.P-7. Ex.P-1 cheque, Ex.P-2 is the Endorsement issued by the bank, Ex-P-3 legal notice, Ex.P4 Postal receipt, Ex.P5 Postal acknowledgment, Ex.P6



Postal track consignment and Ex.P7 statement of account marked by PW2.

10. In order to disprove the case of the complainant, accused neither examined himself as DW1 nor produced any documents in support of his contention.

11. However, in order to attract the presumption available under section 139 of N.I. Act, the complainant has to discharge initial burden. In the instant case Ex.P-1 cheque presented within 3 months from the date of issuance, Ex.P.2 is the Endorsement issued by the complainant's bank dated 21.08.2018, soon after the complainant has issued legal notice on 29.08.2018 and the same has been served to accused on 18.09.2018, but the accused failed to make good within 15 days from the date of demand notice. Hence, the complainant has complied all mandates of clause (a) to (c) of the proviso with section 138 of NI act.

12. In the present case, the demand notice issued on 29.08.2018 and the same has been served on 18.09.2018 and the cause of action arose on or from 02.10.2018 i.e., when the accused failed to make payment. Hence, the complainant shall file the complaint within 30 days from 02.10.2018 and the complainant has presented the present complaint on 17.10.2018. Hence, the



present complaint has been filed within 30 days from the date on which cause of action was arose. Hence, the complainant has complied all mandates of sec.138 of N.I.Act. Hence, point No.1 is answered in the **'Affirmative'**.

13. Point No.2:- It is the case of complainant that the accused has availed a loan of ₹10,00,000/- from the complainant and towards the repayment of the said loan the accused has issued a post dated cheque bearing No.044923 dated 18.06.2018 drawn on Syndicate Bank, Kalasa Branch. The complainant presented the said cheque for encashment through State Bank of India, Kalasa Branch. But the said cheque has been dishonored and returned with an endorsement "Funds Insufficient" dated 21.08.2018. Thereafter, the complainant informed the accused about the dishonor of the cheque and also issued legal notice to the accused on 29.08.2018 by RPAD. The legal notice was served to the accused on 18.09.2018, but the accused failed to reply the said notice or pay the amount to the complainant in spite of issuance of notice.

14. In order to prove his case, the complainant got himself examined as PW.1 and got marked 6 documents as Ex.P1 to Ex.P-6. Ex.P-1 is the cheque issued by the accused in favor of complainant



for a sum of ₹10,00,000/-, Ex.P2 is the endorsements issued by the bank on presentation of Ex.P1 for encashment. Ex.P-3 is the legal notice dated 29.08.2018 issued by complainant against the accused by demanding the return of amount due towards the complainant, Ex.P4 and 5 are postal receipt and acknowledgment, Ex.P6 Postal track consignment and further the bank manager by name Manjunath examined as PW2 and got marked document at Ex.P7 statement of account. Now, let's ascertain whether the complainant is entitled to the presumption available U/s. 139 of Negotiable Instruments Act. As per sec 139 of NI Act, it shall be presumed unless the contrary is proved that the cheque in questioned was issued in whole or in part of any legally recoverable debt or liability.

15. Herein the present case the accused person has not denied the transaction between the complainant and himself and the issuance of Ex.P1. But, the accused contends that with respect to the compromise held between the complainant, accused and one Sri. Arun Thavro, the complainant has collected the cheque slip and Aadhaar cards from the accused and Arun Thavro. The said documents have not been return by the complainant in favour of the accused and the said document has been misused by the



complainant herein. In order to prove the said contention neither accused stepped into witness box nor produced any documents or examined any witnesses in support of his contention. Moreover, the bank manager i.e., the PW2 deposed that the Ex.P1 belongs to the accused herein and the document produced by the PW2 i.e., Ex.P7 shows the transaction of Rs.10,00,000/- through accused bank account. On the other hand accused never denied the issuance of Ex.P1. But, he denies the transaction with the complainant. But, in support of his contention there is no material placed on record. On perusal of the material on record this Court has not found any material on behalf of the accused in order to rebut the presumption under Section 139 of NI Act. Therefore accused person has utterly failed to rebut the presumption either through cross examination or through defense evidence. Hence, the court is left with no reasonable doubt about the existence of liability.

16. The complainant has complied with all legal requirements, the cheque was presented within time, dishonored due to Funds Insufficient, a notice was issued within the prescribed period and the complaint was filed within limitation. Therefore, the ingredients of section 138 of the NI Act stand proved beyond



doubt. Accordingly, this court answered point No.2 in the **'Affirmative'**.

17. Point No.3: In view of the above findings on point No.1, so also keeping in view the facts of the case, this Court proceeds to pass the following:

ORDER

The accused is found guilty of offence punishable U/Sec. 138 of Negotiable Instruments Act.

By exercising the power under Section 255(2) of Cr.P.C, the accused is convicted for the offence punishable under Section 138 of Negotiable Instruments Act and sentenced to pay fine of ₹10,05,000/-, in default to undergo simple imprisonment for Six months.

It is hereby ordered that out of the fine amount, a sum of ₹10,00,000/- shall be paid to the complainant as compensation and remaining ₹5,000/- shall be defrayed to the state expenses.

Bail bond stands canceled.



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

(Dictated to the Stenographer, transcribed by him, corrected and then pronounced by me in the open court on this the **09th day of JULY 2026, at Mudigere.**)

(Suraksha.K.K)
I Addl. Civil Judge & JMFC.,
Mudigere.

ANNEXURE

LIST OF WITNESSES EXAMINED ON BEHALF OF THE COMPLAINANT:-

PW1 : P.Subramanya Rao

LIST OF DOCUMENTS MARKED ON BEHALF OF THE COMPLAINANT:-

Ex.P1 : Cheque dtd: 18.06.2018

Ex.P1(a) : Signature of accused

Ex.P2 : Bank endorsement

Ex.P3 : Legal notice dated 29.08.2018

Ex.P4 : Postal receipt

Ex.P5 : Postal acknowledgment

Ex.P6 : Postal track consignment

Ex.P7 : Statement of account

LIST OF WITNESSES EXAMINED ON BEHALF OF THE ACCUSED :-

- Nil-

LIST OF DOCUMENTS MARKED ON BEHALF OF THE ACCUSED :-

- Nil-

(Suraksha.K.K)
I Addl. Civil Judge & JMFC.,
Mudigere.

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